

**CHAPTER 1**  
**GENERAL PROVISIONS AND DEFINITIONS**  
**APPLICABLE TO THE ENTIRE CITY CODE**  
**INCLUDING PENALTY FOR VIOLATION**

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## SECTION 1

### OFFICIAL CITY CODE

#### SECTION:

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- 1-1-3: Violation a Misdemeanor or a Petty Misdemeanor
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**1-1-1: APPLICATION.** The provisions of this Chapter shall be applicable to all the chapters, sections, subdivisions, paragraphs and provisions in the City Code and the City Code shall apply to all persons and property within the City of St. Francis, Minnesota and within such adjacent area as may be stated in specific provisions.

**1-1-2: DEFINITIONS.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of every chapter, section, subdivision, paragraph and provision of this City Code, shall have the following meanings and inclusions: (Ord 97, SS, 1-3-2006)

- A. “City” means the City of St. Francis, Minnesota, acting by or through its duly authorized representative.
- B. “City Administrator” means the person duly appointed by the City Council and acting in such capacity.
- C. “City Clerk/Treasurer” means the person duly appointed by the City Council and acting in such capacity.
- D. “City Code” means the St. Francis Code.
- E. “Conviction” means either of the following accepted and recorded by the Court:
  - 1. A plea of guilty; or,
  - 2. A verdict of guilty by a jury or a finding of guilty by the Court.

- F. "Council" and "City Council" mean the City Council of the City of St. Francis, Minnesota.
- G. "Crime" means conduct which is prohibited by ordinance and for which the actor may be sentenced to imprisonment or fine.
- H. "Ex Officio Member" means a person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right and obligation (within his discretion) to speak to any question coming before the board, commission or other deliberative body of which he is such member.
- I. "Intersection" means the area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.
- J. "May" is permissive.
- K. "Misdemeanor" means the crime for which a sentence of not more than ninety (90) days or a fine of not more than \$700.00, or both may be imposed.
- L. "Ordinance" means an ordinance duly adopted by the City Council of St. Francis, Minnesota.
- M. "Person" includes all firms, partnerships, associations, corporations and natural persons.
- N. "Petty Misdemeanor" means an offense, which does not constitute a crime, and for which a sentence of a fine of not more than \$200.00 may be imposed.
- O. "Police Officer" and "Peace Officer" mean every officer, including special police, authorized to direct or regulate traffic, keep the peace, and appointed or employed for the purpose of law enforcement.
- P. "Premises" means any lot, piece or parcel of land within a continuous boundary whether publicly or privately owned, occupied or possessed.
- Q. "Private Property" means all property not included within the definition of public property or public place.
- R. "Public Property" and "Public Place" mean any place, property or premises dedicated to public use, owned by the City, occupied by the City as a lessee, or occupied by the City as a street by reason of an easement, including by not limited to, streets, parks or parking lots so owned or occupied.

- S. "Roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.
- T. "Shall" is mandatory.
- U. "Street" means the entire area dedicated to public use, or contained in an easement or other conveyance or grant to the City, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.
- V. "Violate" includes failure to comply with.
- W. "Written" and "In Writing" mean any mode of representing words and letters in the English language.

**1-1-3: VIOLATION A MISDEMEANOR OR A PETTY MISDEMEANOR.** Every person violates a chapter, section, subdivision, paragraph or provision of this City Code when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor, or as for a petty misdemeanor, except as otherwise stated in specific provisions herein, as set forth in the specific chapter in which the section, subdivision, paragraph or provision violated appears. Upon conviction for a crime, the actor may be convicted of either the crime charged if it is a misdemeanor, or a petty misdemeanor as an included offense necessarily proved if the misdemeanor charge were proved.

**1-1-4: OTHERWISE UNLAWFUL.** The City Code does not authorize an act or omission otherwise prohibited by law.

**1-1-5: SEVERABILITY.** Every chapter, section, subdivision, paragraph or provision of the City Code shall be, and is hereby declared, severable from every other such chapter, section, subdivision, paragraph or provision and if any part or portion of any of them shall be held invalid, it shall not affect or invalidate any other chapter, section, subdivision paragraph or provision.

**1-1-6: PAYMENT INTO CITY TREASURY OF FINES AND PENALTIES.** All fines, forfeitures and penalties recovered for the violation of any ordinance, charter, rule or regulation of the City shall be paid into the City Treasury by the Court or officer

thereof receiving such monies. Payment shall be made in the manner, at the time, and in the proportion provided by law.

**1-1-7: MEANINGS.** As used in this City Code, words of the male gender shall include the female and neuter, and the singular shall include the plural and the plural shall include the singular.

**1-1-8: CITATION.** This codification of the ordinances of the City of St. Francis shall henceforth be known as the St. Francis Code and cited thus: "ST. FRANCIS CODE, SEC. \_\_\_\_\_."

**1-1-9: PENALTIES FOR EACH OFFENSE.** When a penalty or forfeiture is provided for the violation of a chapter, section, subdivision, paragraph or provision of this City Code, such penalty or forfeiture shall be construed to be for each such violation.

**1-1-10: TITLES.** A title or caption to or in any chapter, section, subdivision, subparagraph or other provision of the City Code is for convenience only and shall not limit, expand, or otherwise alter or control the content, wording or interpretation thereof.

**1-1-11: REFERENCE TO A PUBLIC OFFICIAL.** Wherever an appointed public official is referred to in the City Code, the reference shall include such public official or his designee.

Effective Date: 6-1-1990

**CHAPTER 2**  
**ADMINISTRATION**

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## SECTION 1

### AUTHORITY AND VIOLATION

#### SECTION:

- 2-1-1: Authority and Purpose
- 2-1-2: Violation a Misdemeanor

**2-1-1: AUTHORITY AND PURPOSE.** Pursuant to authority granted by Charter, this Chapter of the City Code is enacted so as to set down for enforcement the government and good order of the City by and through the Council.

**2-1-2: VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter, when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.



## SECTION 2

### CITY COUNCIL

#### SECTION:

- 2-2-1: Council Meetings – Time and Place
- 2-2-2: Special Meetings
- 2-2-3: Council Procedure at Regular Meetings
- 2-2-4: Interim Emergency Succession
- 2-2-5: Salaries of Mayor and Council Members
- 2-2-6: Per Diem Payments and Expense Reimbursement for Mayor and City Members

**2-2-1: COUNCIL MEETINGS – TIME AND PLACE.** Regular meetings of the Council shall be held in the Council Chambers on the first and third Mondays of each month at 6:00 PM. Special and adjourned meetings shall also be held in the Council Chambers. In the event that any regular meeting falls on a holiday, then the meeting shall be held on the next business day at the same time. The place of such meeting shall be in the Council Chambers in the City Hall unless otherwise designated by action of the Council. (Ord 87, SS, 3-7-2005; Ord 61, SS, 2-22-2000)

**2-2-2: SPECIAL MEETINGS.** Special meetings of the Council may be called by the Mayor or by any two other members of the Council by writing filed with the City Clerk stating the time, place and purpose of the meeting. Notice of a special meeting shall be given by the City Clerk to each member of the Council by mailing a copy of such filing to all members who did not sign or issue the call at least four (4) days prior to the time stated therein, or by personal service at least seventy-two (72) hours prior to the projected time of meeting. Special meetings may be held without prior written notice to the Council when all Council members are present at the meeting or consent thereto in writing. Any such consent shall be filed with the City Clerk prior to the beginning of the meeting. Any special meeting attended by all Council members shall be a valid meeting for the transaction of any business that may come before the meeting. Meetings of the Council which are adjourned from time-to-time shall not be subject to the foregoing notice requirements; nor shall special meetings which, in the judgment of the Council, require immediate consideration to meet an emergency require such notice, but may be called by telephone communication or any other expeditious means. Notice to the public and to news media shall be given as required by statute.

(Ord 229, SS 06-19-17)

### **2-2-3: COUNCIL PROCEDURE AT REGULAR MEETINGS.**

- A. This Council procedure at regular meetings will apply to the extent that the Council does not provide for a different procedure by resolution. The City Council is authorized to establish different procedure by resolution. (Ord 139, SS, 8-17-2009)
- B. The City Administrator or designee shall prepare the following items: (1) an agenda for the forthcoming meeting; (2) a compiled list of all claimants who have filed verified accounts claiming payment for goods or services rendered the City since the last regular meeting of the Council, such list to be called the "Claim Report" and bearing headings "Claimant" and "Amount"; (3) a copy of all minutes to be considered; and, (4) copies of such other proposals, communications, or other documents as the City Administrator or designee deems necessary or proper for advance consideration by the Council. The City Clerk shall forthwith cause to be mailed or delivered to each member of the Council copies of all said documents. Roberts' Rule of Order (Newly Revised) shall govern all Council meetings as to procedural matters not set forth in the Charter or City Code. At the appointed time for the regular meeting of the City Council, the meeting shall be called to order by the Mayor and in the Mayor's absence, by the Mayor Pro Tempore. If a quorum is present, the City Council shall then proceed with the business in the following order:

(Ord 139, SS, 8-17-2009) & (Ord 229, SS 06-19-17)

1. Call to Order.
2. Roll Call.
3. Adopt Agenda.
4. Consent Agenda, including but not limited to Approval of Minutes; Reports from Boards and Commissions; Payment of Claims; and Approval for payment of Claims and Appropriations. (All items falling under "Consent Agenda" are considered to be routine and non-controversial by the Council and will be approved by one motion. There will not be separate discussion of these items unless a member of the council or a citizen so requests, in which case the items will be removed from the Consent Agenda. Items removed from Consent Agenda approval will be taken up as the next order of business.
5. Meeting Opened Persons Requesting to Appear Before Council. Persons who wish to appear before the Council must submit a written request to the City Clerk prior to the commencement of the meeting, which lists their name and address, and states their business (or identifies on behalf of whom they wish to speak). Persons requesting to appear before the Council will be recognized during the meeting in the order in which they

submitted the written request. The presiding officer may advise any person appearing as to the amount of time allowed prior to his speaking, or later limit such time. Persons speaking shall give their name, address, and state their business for identify on behalf of whom they are speaking. (Ord 139, SS, 8-17-2009)

6. Petitions, Requests, Applications.
  7. Ordinances and Resolutions.
  8. Reports of Staff Members.
  9. Reports of Council members.
  10. Report from Mayor.
  11. Old Business.
  12. New Business.
  13. Adjournment.
- C. Matters inappropriate for consideration at a meeting, or not in the order specified, shall not be considered except (1) with the unanimous consent of the members of the Council, or (2) scheduled public hearings or bid lettings at the time stated in the notice. All claims for payment must be filed at or before 12:00 Noon on the Wednesday preceding the regular Council meeting at which it is to be considered.
- D. Varying Order. The order of business may be varied by the Mayor, but all public hearings shall be held at the time specified in the notice of the hearing. (Ord 139, SS, 8-17-2009)

(Ord 68, SS, 02-04-2002)

#### **2-2-4: INTERIM EMERGENCY SUCCESSION.**

- A. Purpose. Due to the existing possibility of a nuclear attack or natural disaster requiring a declaration of a state of emergency, it is found urgent and necessary to insure the continuity of duly elected and lawful leadership of the City to provide for the continuity of the government and the emergency interim succession of key governmental officials by providing a method for temporary emergency appointments to their offices.

- B. Succession to Local Offices. In the event of a nuclear attack upon the United States or a natural disaster affecting the vicinity of the City, the Mayor, Council City Administrator and City Clerk shall be forthwith notified by any one of said persons and by any means available to gather at the city Hall. In the event that safety or convenience dictate, an alternative place of meeting may be designated. Those gathered shall proceed as follows:

(Ord 97, SS, 01-03-2006 & Ord 229, SS, 06-19-17 )

1. By majority vote of those persons present, regardless of number, they shall elect a Chairman and Secretary to preside and keep minutes, respectively.
  2. They shall review and record the specific facts relating to the nuclear attack or natural disaster and injuries to persons or damage to property already done, or the imminence thereof.
  3. They may, based on such facts, declare a state of emergency.
  4. By majority vote of those persons present, regardless of number, they shall fill all positions of the Council, (including the office of Mayor) of those persons upon whom notice could not be served or who are unable to be present.
  5. Such interim successors shall serve until such time as the duly elected official is again available and returns to his position, or the state of emergency has passed and a successor is designated and qualifies as required by law, whichever shall occur first.
- C. Duties of the Interim Emergency Council. The Interim Emergency Council shall exercise the powers and duties of their offices, and appoint other key government officials to serve during the emergency.

**2-2-5: SALARIES OF MAYOR AND COUNCIL MEMBERS.** Salaries of the Mayor and Council Members are hereby fixed as follows, which amounts are deemed reasonable:

- A. The monthly salary of the Mayor shall be \$450.00 in 2015 and \$500.00 in 2016.
- B. The monthly salary of each Council Member shall be \$375.00 in 2015 and \$400.00 in 2016.
- C. The salaries provide for herein shall be effective January 1, 2015.

(Ord 20-C, 1-1-1989; Ord 50, SS, 8-4-1997; Ord 70, SS, 9-3-2002; Ord 124, SS, 10-6-2008; Ord. 199, SS, 8-18-14, Effective 9-21-14)

**2-2-6: PER DIEM PAYMENTS AND EXPENSE REIMBURSEMENT FOR MAYOR AND CITY MEMBERS.** In addition to the salary, the Mayor and each member of the Council shall receive a per diem for substantially attending any board, commission, or committee meeting; meetings where the Mayor or Council member's attendance is required or necessary or when attending to official business or travel, but only when such attendance or activity is a formal appointment or has been specifically approved by action of the Council. The per diem shall be \$35.00 for one-half (1/2) day of four hours or less and \$70.00 for a day of more than four hours. Each member of the Council shall at least on a quarterly calendar year basis certify his or her attendance or approved activity prior to receiving payment. No per diem shall be paid for attendance or activity occurring more than four months prior to certification. In addition to the per diem, each member shall receive reimbursement for authorized travel expenses on the same basis as regular full-time City administrative personnel. The per diems provided for in this section are deemed reasonable and are based upon per diems paid to other Anoka County elected public officials with similar duties and responsibilities. (Ord 105, SS, 12-4-2006)





## SECTION 3

### GENERAL GOVERNMENT PROCEDURES

#### SECTION:

2-3-1: City Seal

2-3-2: Facsimile Signatures

**2-3-1: CITY SEAL.** All contracts to which the City is a party shall be sealed with the City Seal. Said Seal shall be kept in the custody of the City Clerk and affixed by him/her. The official City Seal shall be a circular disc having engraved thereupon "CITY OF ST. FRANCIS" and such other words, figures or emblems as the Council may, by resolution, designate. (Ord 229, SS, 06-19-17)

**2-3-2: FACSIMILE SIGNATURES.** The Mayor and Finance Director are hereby authorized to request a depository of City funds to honor an order for payment when such instrument bears a facsimile of his/her signature, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were his manually written signature. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.  
) (Ord 229, SS, 06-19-1



## SECTION 4

### BOARDS AND COMMISSIONS

#### SECTION:

- 2-4-1: Boards and Commissions Generally
- 2-4-2: Planning and Zoning Commission
- 2-4-3: Park Commission
- 2-4-4: Heritage Preservation Commission
- 2-4-5: Board of Adjustment
- 2-4-6: Absentee Ballot Counting Board

**2-4-1: BOARDS AND COMMISSIONS GENERALLY.** Unless otherwise provided by other provisions of the City Code, all Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor or the Council, as the case may be, prior to the expiration of an existing term. The term of each appointee shall be established and stated at the time of his/her appointment, and terms of present Board and Commission members may be reestablished and changed so as to give effect to this Section. New appointees shall assume office on the first day of the first month following their appointment and qualification, or on the first day of the first month following the expiration of the prior term and qualification, whichever shall occur last. Provided, however, that all appointees to Board and Commissions shall hold office until their successor is appointed and qualified. Individuals appointed to the various Boards and Commissions shall be limited to serving a maximum of two consecutive full terms on that Board or Commission. If there are no applicants for an outgoing Board or Commission member's position, the council can, on four-fifths (4/5) vote, reappoint the Board member to a third term. Individuals currently serving on a Board or Commission shall also be prohibited from serving on any other Board or Commission simultaneously. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be only for the unexpired term. No appointed Board and Commission member shall be an employee of the City, but an ex officio member may be so employed. The Chairman and Secretary shall be chosen from and by the Board or Commission membership annually to serve for one year. Provided, however, that no Chairman shall be elected who has not completed at least one year as a member of the Board or Commission. Any Board and Commission shall hold its regular meeting at a time established and approved by the Council. A member of the Council shall be an ex officio member of all Boards and Commissions; provided, that if he/she is unable to attend a meeting or act in the capacity of such membership, he/she may be represented by his/her assistant or some person duly authorized by him/her. (Ord 10, SS, 12-16-1991; Ord 51, SS, 4-20-1998)

#### **2-4-2: PLANNING AND ZONING COMMISSION.**

- A. Establishment. The Planning and Zoning Commission is hereby maintained and shall be the planning agency for the City.
- B. Composition. The Planning and Zoning Commission shall consist of seven (7) voting members who shall be appointed by the Council and may be removed by a four-fifths (4/5) vote of the Council. The Council shall appoint a liaison to the Commission who shall serve as staff to the Commission, and the City Attorney and the City Engineer will be consulted as needed.
- C. Term. Members shall serve three (3) year terms with one-third (1/3) being appointed each year. Members shall be residents of the City throughout their term of office.
- D. Organization. The Commission shall elect a Chairman from among its members for a one (1) year term on January 1 of each year. The Commission shall hold a regular meeting at least once a month. The Commission shall also meet to hold public hearings, conduct special projects, or research issues as requested by the Council, as may be needed. A simple majority of the appointed members is required to constitute a quorum. (Ord 38-F, 9-15-1984)
- E. Powers and Duties. The Commission shall be the planning agency and shall exercise the duties conferred upon it by this and other provisions of the City Code, and shall advise the Council pursuant to Section 2-2-1 of the City Code. Any power granted to the Commission under this Chapter shall be subject to the City Charter. The Council shall itself be and perform the duties and exercise the powers of such Boards and Commissions provided for by Minnesota Statutes, Sections 462.351-462.364. (Ord 38-P, 12-11-1989)

#### **2-4-3: PARK COMMISSION.**

- A. Establishment and Composition. A Park Commission is hereby established. The Commission shall be composed of seven (7) members who shall serve staggered three (3) year terms. In addition, the Council may appoint a liaison to serve as needed to the Commission.
- B. Powers and Duties. The Commission shall study and make recommendations concerning park improvements, and shall assist with park maintenance, upkeep and operation. The Commission shall develop plans for community recreation by assessing the needs of the people of the community and by considering their wishes. The Commission shall explore ways of providing as many recreational opportunities as possible. This may include but shall not be limited to working with neighboring communities, applying for grants, and organizing fund raisers. Fees and deposits shall be reviewed by the Commission on an annual basis and

recommendations made to the Council. The Commission shall submit to the Council an annual budget for park improvements and recreation.

#### **2-4-4: HERITAGE PRESERVATION COMMISSION.**

- A. Policy and Purpose. The Council finds that the historical, architectural, archeological, engineering, and cultural heritage of the City is among its most important assets. Therefore, this Section is adopted to engage in a comprehensive program of historic preservation, and to promote the use and conservation of historic properties for the education, inspiration, pleasure, and enrichment of the citizens of the City.
- B. Establishment and Composition. A Heritage Preservation Commission is hereby established. The Commission shall be composed of five (5) members appointed for two (2) year terms. Commission members shall be persons with demonstrated interest and expertise in historic preservation, at least two (2) of whom shall be members of the St. Francis Community Historical Society, and, if available, one shall be a member of the Anoka County Historical Society.
- C. Powers and Duties. The Commission shall study and recommend to the Council, the following:
  - 1. The survey and designation of districts, sites, buildings, structures, and objects that are of historical, architectural, archeological, engineering, or cultural significance.
  - 2. The enactment of rules governing construction, alteration, demolition, and use, including the review of building permits, and the adoption of other measures appropriate for the preservation, protection and perpetuation of designated properties and areas.
  - 3. The acquisition by purchase, gift, or bequest, of a fee or lesser interest, including preservation restrictions, in designated properties, and adjacent or associated lands which are important for the preservation and use of the designated properties.
  - 4. Requests to the Council to use its power of eminent domain to maintain or preserve designated properties and adjacent or associated lands.
  - 5. The sale or lease of air rights.
  - 6. The granting of use variations to a zoning ordinance.
  - 7. Participation in the conduct of land use, urban renewal, and other planning processes undertaken by the City.

8. The removal of blighting influences, including signs, unsightly structures, and debris, incompatible with the physical well-being of designated properties or areas.
9. Communication with the State Historic Preservation Officer. Proposed state designations and design guidelines must be sent to the State Historic Preservation Officer at the Minnesota Historical Society, who shall review and comment on the proposal within sixty (60) days. By October 31 of each year, the Commission shall submit an annual report to the State Historic Preservation Officer. The report must summarize the Commission's activities, including designations, reviews, and other activities during the previous twelve (12) months.

**2-4-5: BOARD OF ADJUSTMENT.** (CODIFIER'S NOTE: The Board of Adjustment is provided for in Chapter 10 of the City Code – see Section 10-3.)

Source: City Code

Effective Date: 06-01-1990

**2-4-6: ABSENTEE BALLOT COUNTING BOARD.** The Council hereby authorizes an Absentee Ballot Counting Board and further authorizes the election judges of such Board to receive, examine, and validate absentee ballots. The further duties of such Board shall be those provided by statute.

## **SECTION 5**

### **DEPARTMENTS**

#### **SECTION:**

- 2-5-1: Departments Generally
- 2-5-2: City Clerk
- 2-5-3: Police Department
- 2-5-4: Fire Department
- 2-5-5: Public Works Department
- 2-5-6: Legal Department
- 2-5-7: Streets, Parks and Recycling Department
- 2-5-8: City Administration
- 2-5-9: Finance
- 2-5-10: Community/Economic Development

#### **2-5-1: DEPARTMENTS GENERALLY.**

- A. Control. All Departments of the City are under the overall control of the Mayor/Council. Heads of all Departments are responsible to the Mayor/Council and subject to its supervision and direction, except as otherwise provided herein.
- B. Appointment. All Department Heads and employees shall be hired by the Council for an indeterminate term and subject to any applicable Civil Service Regulations in effect in the City.
- C. Compensation. All wages and salaries shall be fixed and determined by Council resolution.

#### **2-5-2: CITY CLERK.**

- A. Pursuant to the authority granted by Laws of the State of Minnesota, the Department of City Clerk is hereby recognized as currently in existence and continued. (Ord. 155, SS, 7-5-2011)
- B. Beginning with the year in which this ordinance becomes effective and each year thereafter, there shall be an audit of the City's financial affairs by the Public Examiner or a Public Accountant in accordance with minimum auditing procedures prescribed by the Public Examiner.

Source: Ordinance No. 26, Effective Date: 04-04-1971

**2-5-3: POLICE DEPARTMENT.** A Police Department is hereby established. The Head of this Department shall be known as the Chief of Police, and the number of additional members and employees of the Police Department shall be determined by the Council which may be changed from time-to-time. The Mayor shall have, without

the approval of the Council, authority to appoint additional members of the Police Department for temporary duty when in his judgment an emergency exists for the preservation of life or property. The City may establish a Police Reserve to assist in law enforcement. Police reserve officers shall be under the control and supervision of the Chief of Police but shall not be deemed employees of the City and shall be covered as a City employee under the City's worker's compensation insurance policy. The Chief of Police and all members of the Police Department shall have the powers and authority of police officers generally and shall perform such duties as are required of them by the Council or by law. The Chief of Police shall have overall supervision and management of the Police Department and custody of all property used and maintained for purposes of said Department. The Chief of Police shall make and file such reports as may be required by the Council or City Administrator. (Ord 97, SS, 1-3-2006)

**2-5-4: FIRE DEPARTMENT.** A Volunteer Fire Department under the control of the Council is hereby established. The size, composition and remuneration shall all be established by resolution of the Council, which may be changed from time-to-time by subsequent resolution. The Council shall also establish written rules and regulations of the Department, a copy of which shall be distributed to each of its members. The members of the Department shall elect their own Chief, Assistant Chief, and other officers subject to confirmation and approval by the Council. The Chief of the Fire Department shall have general superintendence of the Fire Department and the custody of all property used and maintained for the purposes of said Department. He shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the State and ordinances of the City relative to a Fire Department and to the prevention and extinguishment of fires are duly observed. He shall superintend the preservation of all property endangered by fire and shall have control and direction of all persons engaged in preserving such property. In case of the absence or disability of the Chief for any cause, the Assistant Chief shall exercise all the powers, perform all the duties and be subject to all the responsibilities of the Chief. The Fire Marshall shall have the authority to issue citations for violations of Sections 7-4-2.G and 7-4-2.P of this Code. The Chief of the Fire Department shall make and file such reports as may be requested by the Council or City Administrator. (Ord 69, SS, 5-6-2002; Ord 97, SS, 1-3-2006)

**2-5-5: PUBLIC WORKS DEPARTMENT.** A Public Works Department is hereby established. The Head of such Department shall be the Public Works Superintendent. The City water and sewerage systems shall be under the direct supervision of the Public Works Superintendent and he/she shall be responsible for and have custody of all property of such Department. The Public Works Superintendent shall make and file such reports as may be requested by the Council or City Administrator. (Ord 44, SS, 5-20-1996); Ord 97, SS, 1-3-2006)

**2-5-6: LEGAL DEPARTMENT.** A Legal Department is hereby established. The Council shall appoint a City Attorney, who shall be Head of the Legal Department,



together with such assistants as may be necessary who shall serve at the pleasure of the Council. The City Attorney shall perform such duties as are required of him by law or referred to him by the Council or City Administrator. It shall be the official duty of the City Attorney to act as "Revisor of Ordinances". (Ord 97, SS, 1-3-2006)

Source: City Code

Effective Date: 06-01-1990

**2-5-7: STREETS, PARKS AND RECYCLING DEPARTMENT.** A Streets, Parks and Recycling Department is hereby established. The Head of such Department shall be the Streets and Parks Superintendent/Recycling Coordinator. The City streets, parks and recycling shall be under the direct supervision of the Streets and Parks Superintendent/Recycling Coordinator and he/she shall also be responsible for the routine repair and maintenance of all City Buildings and Properties. The Streets and Parks Superintendent/Recycling Coordinator shall make and file such reports as may be requested by the Council or City Administrator. (Ord 97, SS, 1-3-2006)

**2-5-8: CITY ADMINISTRATION.** An Administration Department is hereby established. The Council shall appoint a City Administrator, who shall be Head of the Administration Department. The City Administrator will perform ministerial duties as follows: (Ord 97, SS, 1-3-2006)

- A. Subject to City Council regulations and applicable laws, the City Administrator shall control and direct the administration of municipal affairs.
- B. The City Administrator shall see that all laws, ordinances and resolutions of the City are enforced.
- C. The City Administrator shall supervise the activities of all municipal department heads and personnel of the City in the administration of the municipal policy with authority to effectively recommend their employment and/or removal.
- D. The City Administrator shall attend and participate in all meetings of the City Council. The City Administrator shall be responsible for the preparation of the City Council Agenda and recommend to the City Council such measures as he or she may deem necessary for the welfare of the citizens and the efficient administration of the City. The City Administrator may attend, at his or her discretion or at the direction of the City Council, other committee and commission meetings.
- E. The City Administrator shall prepare an annual fiscal budget and capital improvement plan for the City Council. The City Administrator shall maintain financial guidelines for the City within the scope of the approved budget and capital program. The City Administrator shall submit reports to the City Council on the financial condition of municipal accounts and make sure the annual financial statement is prepared in accordance with Minnesota Statutes.

- F. The City Administrator shall handle all personnel matters for the City in conjunction with policy established by the City Council. The City Administrator shall negotiate or delegate the negotiation of terms and conditions of employee labor contracts for presentation to the City Council.
- G. The City Administrator shall represent the City at official functions as directed by the City Council and maintain good public relations with the citizens of the community.
- H. The City Administrator shall act as purchasing agent for the City and be responsible in making all purchases in accordance with the approved municipal budget. The City Administrator shall have the authority to sign purchase orders for routine services, equipment and supplies as per Purchasing Policy. All claims resulting from orders placed by the City Administrator shall be audited for payment by the City Council. The City Administrator shall negotiate contracts for any kind of merchandise, materials, equipment or construction work for presentation to the City Council.
- I. The City Administrator shall coordinate municipal programs and activities as directed by the City Council. The City Administrator shall monitor all consultant and contract work performed for the City. He shall coordinate the activities of the City Attorney.
- J. The City Administrator shall be informed regarding federal, state and county programs which affect the municipality. He or she shall consult with officials of both public and private agencies as may be required.
- K. The City Administrator shall inform the City Council on matters dealing with the administration of the City and prepare and submit to the City Council for adoption an administrative code encompassing the details of administrative procedure.
- L. The City Administrator shall perform such other duties as may be prescribed by law or required of him or her by ordinance or resolutions as adopted by the City Council.

**2-5-9: FINANCE.** A Finance Department is hereby recognized as currently in existence and continued. This department shall perform the duties of the City Treasurer as established in Statute. The head of the Finance Department shall be the Finance Director. (Ord. 155, SS, 7-5-2011)

**2-5-10: COMMUNITY/ECONOMIC DEVELOPMENT.** A Community/Economic Development Department is hereby established. This department performs supervisory and responsible professional work managing comprehensive planning, land-use, zoning, and economic development; oversees building inspection services

and performs related duties as assigned. The Head of the Community/Economic Development Department shall be the Community/Economic Development Director.

(Ord.205,SS 10/26/15)



## SECTION 6

### PERSONNEL

#### SECTION:

- 2-6-1: Personnel, Rules and Regulations
- 2-6-2: Worker's Compensation
- 2-6-3: Criminal History Background Investigations

**2-6-1: PERSONNEL RULES AND REGULATIONS.** The Council may, by resolution, establish personnel rules setting forth the rights, duties and responsibilities of employees. Such rules may from time-to-time be amended.

**2-6-2: WORKER'S COMPENSATION.** The City shall not enter into any contract for doing public work before receiving from all other contracting parties acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes.

Source: City Code  
Effective Date: 06-01-1990

#### **2-6-3: CRIMINAL HISTORY BACKGROUND INVESTIGATIONS.**

- A. Authority. This ordinance is intended to comply with the guidelines for local access of CCH for non-criminal justice purposes. Minnesota Statutes, Section 13.87 authorizes city police departments to conduct criminal history background investigations on applicants for City positions and for purposes of screening potential tenants of real property using Minnesota Computerized History data. Access for these purposes will be limited to Minnesota Computerized Criminal History public data only.
- B. Applications for Employment. This section applies only to applicants who are finalists for regular, temporary and volunteer status positions. Before the investigation is undertaken, the applicant must authorize the Police Department in writing with a signed consent to undertake the investigation and to release the information to the City Council, City Administrator and/or other City staff as appropriate.
- C. Rejection of Applications for Employment. Except in the case of exceptions set forth in Minnesota Statutes Sections 364.09, as may be amended from time to time, if the City rejects an application for employment due partly or solely to the

applicant's prior conviction of a crime which relates directly to the position sought, the City will notify the applicant in writing of the following:

1. The grounds and reasons for denial;
2. The applicant complaint and grievance procedure set forth in Minnesota Statute Section 364.06, as may be amended from time to time;
3. The earliest date the applicant may reapply for employment or a volunteer position; and
4. That all competent evidence of rehabilitation will be considered upon reapplication.

Only public conviction information related directly to the position sought will be considered in denying employment. The City acknowledges that questioned identity situations may occur and fingerprint verifications will be allowed in cases where it is not clear if a record based on a name and date of birth search actually belongs to the person.

Source: Ordinance 94, SS  
Effective Date: 11-21-2005

**2-6-4: SCREENING OF POTENTIAL TENANTS OF REAL PROPERTY:**

For the protection of local residents, property owners, tenants and the overall public safety of the community, the Police Department is hereby authorized to conduct Minnesota criminal history checks for the purpose of screening potential tenants of real property, subject to the following conditions:

- A. a request is made by the property owner/landlord in writing;
- B. a signed consent form that complies with all applicable laws from the subject of the check is received by the Police Department;
- C. authorization is received from the subject of the check to release said information to the property owner/landlord;
- D. the purpose and use of said information is solely for assisting in the screening of potential tenants.

Source: Ordinance 147, SS  
Effective Date: June 20, 2010

## SECTION 7

### SPECIAL ASSESSMENTS

#### SECTION:

- 2-7-1: Special Assessment Policy
- 2-7-2: Deferment of Special Assessments
- 2-7-3: Partial Prepayment of Special Assessments
- 2-7-4: Current Services – Special Assessment
- 2-7-5: Special Assessment for Cost Recovery

**2-7-1: SPECIAL ASSESSMENT POLICY.** The City of St. Francis will follow the requirements and procedures outlined in Minn. Statute, Section 429 for local improvements and special assessments initiated under this Section of the City Charter or initiated pursuant to state law. The City may also follow an assessment policy created by resolution that provides for additional provisions and procedures consistent with Minn. Statute, Section 429 and Chapter 8 of the City Charter. (Ord 67, SS, 6-18-2001; Ord 90, SS, 5-16-2005)

#### **2-7-2: DEFERMENT OF SPECIAL ASSESSMENTS.**

- A. The Council may defer the payment of any special assessment on homestead property owned by a person who is sixty-five (65) years of age or older, or who is retired by virtue of permanent and total disability, and the Finance Director is hereby authorized to record the deferment of special assessments where the following conditions are met: (Ord. 229, SS, 06-19-17)
1. The applicant must apply for the deferment not later than ninety (90) days after the assessment is adopted by the Council.
  2. The applicant must be sixty-five (65) years of age, or older, or retired by virtue of permanent or total disability.
  3. The applicant must be the owner of the property.
  4. The applicant must occupy the property as his principal place of residence.
  5. The applicant's income from all sources shall not exceed the low income limit as established by the Department of Housing and Urban Development as used in determining the eligibility for Section VIII housing.

- B. The deferment shall be granted for as long as a period of time as the hardship exists and the conditions as aforementioned have been met. However, it shall be the duty of the applicant to notify the City Clerk or Finance Director of any change in his status that would affect eligibility for deferment. (Ord. 229, SS, 06-19-17)
- C. The entire amount deferred special assessments shall be due within sixty (60) days after loss of eligibility of the applicant. If the special assessment is not paid within sixty (60) days, the Finance Director shall add thereto interest at eight (8) percent per annum from the due date through December 31 of the following year and the total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant plead and prove, to the satisfaction of the Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the Council may order that the applicant pay within sixty (60) days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date (including principal and interest) with the balance thereafter paid according to the terms and conditions of the original special assessment. (Ord. 229, SS 06-19-17)
- D. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following:
  - 1. The death of the owner where there is no spouse who is eligible for deferment.
  - 2. The sale, transfer or subdivision of all or any part of the property.
  - 3. Loss of homestead status on the property.
  - 4. Determination by the Council for any reason that there would be no hardship to require immediate or partial payment.

**2-7-3: PARTIAL PREPAYMENT OF SPECIAL ASSESSMENTS.**

- A. Partial Prepayment of Assessments Permitted. After the adoption of an assessment roll pursuant to Minnesota Statutes, Chapter 429, as amended, and before certification of said assessment roll to the County Auditor, the Finance Director, or other authorized official, is authorized and directed to accept partial prepayment of said assessment, and reduce the amount certified to the County Auditor accordingly. As provided by law, such partial prepayment may be accepted only during the thirty-day period following approval of the assessment roll.  
(Ord. 229, SS, 06-19-17)



- B. Scope. This Section shall apply to all assessment rolls which, on the effective date hereof, have been adopted by the Council but not yet certified to the County Auditor, and to all assessment rolls subsequently adopted by the Council.

**2-7-4: CURRENT SERVICES – SPECIAL ASSESSMENT.**

- A. Definition. “Current Service”, as used in this Section, means one or more of the following: (1) removal of snow, ice, dirt, and refuse from sidewalks, (2) eliminate weeds and cut grass on private property and on non-traveled portions of abutting streets, (3) remove or eliminate public health or safety hazards from private property, (4) repair abutting sidewalks, (5) street sprinkling, street flushing, light street oiling, or other dust treatment of streets, (6) trimming and care of trees and removal of unsound trees from public streets or private property, and (7) the operation of a street lighting system.
- B. Responsibility of Owner or Occupant. It is the primary responsibility of all owners and occupants of private property to (1) remove snow, ice, dirt and refuse from adjacent sidewalks, (2) eliminate weeds and cut grass thereon and on non-traveled portions of abutting streets, (3) remove or eliminate public health or safety hazards there from, and (4) repair abutting sidewalks.
- C. Ice, Snow, Dirt and Refuse on Sidewalks. All ice and snow within twenty-four (24) hours after it ceases to be deposited thereon, and all dirt and refuse deposited thereon, shall be removed by the owner or occupant of abutting private property. If ice, snow, dirt or refuse is not so removed the City may do so and keep a record of the cost attributable to each property.
- D. Weeds and Grass. On or before June 1 of each year and at such other times as may be ordered by the Council, the City may publish notice in the official newspaper to cut and remove all weeds whether noxious or not, and cut all grass, on private property having attained a height of six (6) inches and on non-traveled portions of abutting streets, within seven (7) days after such notice. If weeds are not so cut and removed, or if grass is not so cut, the City may do so and keep a record of the cost attributable to each property.
- E. Public Health and Safety Hazards.
1. Any condition, whether or not unlawful, permitted or maintained on private property and reported to the Community Development Director shall be referred to a member of the City staff or department he deems appropriate for investigation. If it is found that such condition is a hazard to the public health or safety, a written report of the findings shall be prepared and presented to the Council at its meeting next following the preparation of such report. The Council shall consider such report and may call a hearing thereon upon at least twenty (20) days written notice mailed to the

owner and occupant of the subject premises, which notice shall include a copy of such findings. This Section does not relate to hazardous buildings.  
(Ord. 229, SS 06-19-17)

2. If, at the time of the hearing, the Community Development Director shall report that the hazard has been eliminated, hearing shall not be held, and the matter closed. If at such time the hazard has not been eliminated, the hearing shall proceed and be handled as an administrative appeal under this Chapter.  
(Ord. 229, SS 06-19-17)
3. Upon the evidence adduced at the hearing the Council shall make findings which shall be forthwith served upon the owner and occupant of the premises. If it is found that a public health or safety hazard exists on such premises, a notice shall accompany such findings, which notice shall state that the owner and occupant have ten (10) days to eliminate such hazard or the City will do so under the authority of this Section.
4. If the owner and occupant do not so eliminate such hazard, or commence and do not proceed with such elimination, the City may do so and keep a record of the cost thereof.

F. Street Sprinkling, Street Flushing, and Tree Care.

1. The Council may each year determine what streets shall be sprinkled or flushed, oiled, or given other dust treatment during the year and the kind of work to be done on each. The council may also determine from time to time the streets on which trees (other than diseased trees) shall be trimmed and cared for, the kind of work to be done, and what unsound trees shall be removed. The City Clerk shall, under the Council's direction, publish notice that the Council will meet to consider such projects. Such notice shall be published in the official newspaper at least once no less than two weeks prior to such meeting of the Council and shall state the date, time and place of such meeting, the streets affected and the particular projects proposed and the estimated cost of each project, either in total or on the basis of the proposed assessment per front foot or otherwise.  
(Ord. 229, SS 06-19-17)
2. At such hearing the Council shall hear property owners with reference to the scope and desirability of the proposed projects. The Council shall thereupon adopt a resolution confirming the original projects with such modifications as it considers desirable and shall provide for doing the work by day labor or by contract. The City shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street.

- G. Personal Liability. The owner of property on or adjacent to which a current service has been performed shall be personally liable for the cost of such service. When the service has been completed and the cost determined, the City may prepare a bill and mail to the owner and the amount shall then be due and payable.
- H. Assessment. Charges for any current services unpaid after billing, and after notice and hearing, may be certified to the County Auditor and collected as any other special assessment.

**2-7-5: SPECIAL ASSESSMENT FOR COST RECOVERY.** (Ord 134, SS, 3-2-2009)

- A. Enforcement of Charges. Any property owner or agent thereof that willfully engages the City in an application, services, or other such activity shall bear full responsibility for refunding to the City the costs incurred to the City for the required review, analysis, notifications, processing, enactment, and other obligations.
- B. Assessment. Charges for any services unpaid after billing for at least ninety (90) days, and after notice and hearing, may be certified to the County Auditor and collected as any other special assessment.
- C. Administrative Fees. Any associated administrative costs related to the assessment may be included in the assessment.
- D. Right of Action. Any charges, levied by and pursuant to this section, and which have not been properly billed to the owner or occupant of any premises served, and not paid, may be recovered in a civil action by the City in any court of competent jurisdiction.



## SECTION 8

### FRANCHISES

#### SECTION:

2-8-1: Franchises

#### **2-8-1: FRANCHISES.**

- A. Definition. The term “franchise” as used in this Section shall be construed to mean any special privileges granted to any person, in, over, upon or under any of the streets or public places of the City, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.
- B. Franchise Ordinances. The Council may grant franchises by ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public spaces. All persons desiring to make any burdensome use of the streets or public places, inconsistent with the public’s right in such places, or desiring the privilege of placing in, over, upon or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating railways, telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the City or its inhabitants or any portion thereof, transportation facilities, water, light, heat, power, gas, or any other such utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.
- C. Power or Regulation Reserved. The City shall have the right and power to regulate and control the exercise by any person, of any franchise however acquired, and whether such franchise has been heretofore granted by it or by the State of Minnesota.
- D. Conditions in Every Franchise. All conditions specified in this Section shall be a part of every franchise even though they may not be expressly contained in the Franchise:
  - 1. That the grantee shall be subject to and will perform on its part all the terms of this Section and will comply with all pertinent provisions of the City Charter and City Code, as the same may from time to time be amended.
  - 2. That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges,

shall at all times be just, fair and reasonable for the services rendered and shall in all cases be fixed and from time to time changed, unless regulated by agency of the State of Minnesota, in the manner following:

- a. A reasonable rate shall be construed to be one which will, with efficient management, normally yield above all operating expenses and depreciation, and fair return upon all money invested.
  - b. If possible, maximum rates and charges shall be arrived at by direct negotiation with the Council.
  - c. If direct negotiations fail to produce agreement, the Council shall, not less than thirty (30) days before the expiration of any existing rate schedule or agreement, appoint an expert as its representative, the franchisee shall likewise appoint an expert as its representative and the two of them shall appoint a third person, preferable an expert, and the three of them shall constitute a board of arbitration. The board shall report its findings as soon as possible and the rates and charges it shall agree upon by majority vote shall be legal and binding, subject only to review by a court of competent jurisdiction upon application of one of the parties.
3. That the Council shall have the right to require reasonable extension of any public service system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the public.
  4. That the grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive upon condemnation proceeding brought by the City to acquire the public utility exercising of such franchise, any return on account of the franchise or its value.
  5. That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed with the City in instrument, duly executed, reciting the facts of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder.
  6. That every grant in said franchise contained of permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the Council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the Council

may at any time deem necessary particularly that it shall have the power to require the removal of poles, masts, and other fixtures bearing wires and the placing underground of all facilities or whatsoever purpose used.

7. Every franchise shall contain a provision granting the City the right to acquire the same in accordance with statute.
  8. That the franchisee may be obligated by the City to pay the City fees to raise revenue or defray increased costs accruing as a result of utility operations or both, including, but not limited to, a sum of money based upon gross operating revenues or gross earnings from its operations in the City.
- E. Further Provisions of Franchises. The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the City to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the Council may deem proper to protect the City's interests, nor shall anything contained in this Section limit any right or power possessed by the City over existing franchises.





## SECTION 9

### FEE SCHEDULE

(Ord. 196, SS, 7-21-14, Effective 8-24-14)  
(Ord. 201, SS, 6-05-15, Effective 7-06-15)  
(Ord. 226, SS, 12-05-16, Effective 01-09-17)

#### SECTION:

2-9-1: Fee Schedule

#### 2-9-1: FEE SCHEDULE.

##### A. Administrative Penalties.

1. Administrative Enforcement Penalties:
  - a. 1<sup>st</sup> Offense \$100
  - b. 2<sup>nd</sup> Offense \$200
  - c. 3<sup>rd</sup> Offense \$500
  - d. 4<sup>th</sup> Offense \$1,000
  - e. 5<sup>th</sup> Offense and Beyond \$2,000
2. Administrative Hearing Fee \$100

##### B. Animal Impound Fees.

1. Administrative Fee \$50/day
2. Pick Up Service Fee:
  - a. 8 AM to 6 PM \$60/hour
  - b. 6 PM to 8 AM \$80/hour
3. Boarding Fee \$25/day

##### C. Animal License:

1. Dog License (May to April)  
\$10/1-2 year vaccinations  
\$15/3 year vaccination
2. Kennel:
  - a. First 10 Dogs \$100/year
  - b. Each Additional Dog \$10/year

##### D. Amusement and Recreation.

1. Amusement Machine \$15/location + \$15/machine
2. Dance:
  - a. Annual \$100/year
  - b. Per Event \$10/event

E. Business and Service License.

1.	Investigation Fee	\$25
2.	Adult Entertainment Use	\$2,000/year
3.	Sauna/Massage Parlors	\$2,000/year
4.	Fireworks – Retail/Tent	\$50/occurrence
5.	Fireworks – Pyrotechnic Display	\$50/occurrence
6.	Pawnbroker	\$1,000/year
7.	Refuse Hauler	\$200/year + \$50/truck
8.	Massage Therapist	\$200/year
9.	Taxicab Driver License Fee	\$150/year
10.	Taxicab Operator License Fee	\$150/year
11.	Towing/Impound	\$150/year
12.	Finger Printing	\$15 and customer provides fingerprint card
13.	Transient Merchant/Peddler:	
	a. Week	\$50
	b. Month	\$150
	c. Year	\$300
14.	Excavations/Mining:	
	a. Active Area Fee	\$50/acre
	b. Inactive Area Fee	\$25/acre
	c. Restoration Credit	\$25/acre

F. Liquor License.

1.	3.2% Malt – Off Sale	\$50/year
2.	3.2% Malt – Off Sale – Special Event	\$25/event
3.	3.2% Malt – On Sale	\$200/year
4.	Club License	\$200/year
5.	Wine License	\$200/year
6.	Intoxicating Liquor – On Sale	\$4,000/year
7.	Intoxicating Liquor – Sunday Sales	\$200/year
8.	Investigation Fee:	
	a. Single Application	\$200
	b. Partnership	\$300
	c. Corporation	\$400
9.	Brewery taproom	\$200
10.	Microdistillery cocktail room	\$200
11.	Brewpub license	\$200
12.	Small brewer & Brewpub Off-Sale License	\$200
13.	Small brewer & Brewpub Sunday Off-Sale License	\$200

G. Tobacco License. \$150/year

H. Street Disruption.

- |   |  |
|---|--|
| 1. Road Right-of-Way – Registration       | \$35 + \$2,000 escrow                      |
| 2. Road Right-of-Way – Permit Application | \$150 + Consultant Fees                    |
| 3. Street Opening                         | \$50 + Bond or Deposit and Consultant Fees |

I. Document Services.

- |  |                                |
|--|--------------------------------|
| 1. Accident, Police and Fire Reports                     | \$.25/page; over 100 pages TBD |
| 2. Copies  | \$.25/page copied              |
| a. CDs   | \$15                           |
| b. Colored Copies of Photos                              | \$3/page                       |
| c. Certificate of Survey (non-homeowner)                 | \$2                            |
| d. City Council Agenda & Minutes (mailed):               |                                |
| 1) Resident  | \$25/year                      |
| 2) Non-Resident  | \$25/year + postage            |
| e. Planning/Park Commission Agenda and Minutes (mailed): |                                |
| 1) Resident  | \$12/year                      |
| 2) Non-Resident  | \$12/year + postage            |

J. General and Miscellaneous.

- |  |                                      |
|--|--------------------------------------|
| 1. Lockouts  | \$25                                 |
| 2. Mileage Reimbursement for Personal Vehicle                | Current IRS Rate                     |
| 3. Notary  | \$2/document                         |
| 4. Public Nuisance Violation Administration Fee (assessable) | \$75/occurrence                      |
| 5. Certify Delinquent Invoices (except utilities)            | Lesser of 10% of delinquency or \$75 |
| 6. Certify Delinquent Invoices                               | 10% of delinquency                   |
| 7. Fire Department Charges                                   | See Ordinance 138                    |
| 8. Returned Checks   | \$30/check                           |
| 9. Snowmobile Permit   | \$15                                 |
| 10. Special Assessment Administrative Fee                    | \$100                                |
| 11. Special Assessment Search                                | \$20/each                            |

K. Equipment and Staff Use.

- |                            |           |
|----------------------------|-----------|
| 1. One Ton Truck with Plow | \$55/hour |
| 2. Belos with Attachment   | \$55/hour |

3.	Crane Truck	\$45/hour
4.	Electric Generator	\$60/hour
5.	Grader	\$90/hour
6.	Kubota/Attachments Mower	\$50/hour
7.	Pick Up Truck	\$40/hour
8.	Single Axle Truck	\$65/hour
9.	Single Axle Truck with Plow	\$85/hour
10.	Tool Cat/Skid Steer w/Attachments	\$60/hour
11.	Tractor with Loader or Attachments	\$60/hour
12.	Pay Loader	\$90/hour
*	<i>Hourly equipment rates DO NOT include the cost of the operator or cost of fuel and gas</i>	
13.	Staff Time	Two Times Step 8 of Their Pay Grade

L. Council / Commission Pay.

1.	City Council Per Diems Per Day	\$35 for four hours or less; \$70 for more than four hours
a.	Special Council Meetings	
b.	Council Retreats/Work Sessions	
c.	Economic Development Authority Meeting (EDA)	
d.	League of MN Cities Functions	Prior Approval Required
e.	Labor Negotiations	Prior Approval Required
f.	Employee Interviews	Prior Approval Required
g.	Mayor Only:	
	1) School/County Liaison	Mayor may appoint Council members to fulfill his obligations and approve attendance
	2) MN Mayors Association	
	3) Speaking Engagements at Other Civic Org.	
	4) Closing of Property Acquisition	
	5) Fire District Study Group	
2.	Planning Commission:	
a.	Chairman	\$25/meeting paid annually
b.	Member	\$20/meeting paid annually
3.	Park Commission:	
a.	Chairman	\$25/meeting paid annually
b.	Member	\$20/meeting paid annually
4.	Economic Development Authority	\$20/meeting paid annually
5.	Upper Rum River Watershed – Resident Appointed by Council	\$20/meeting paid annually

M. Parks and Recreation.

	<u>Resident</u>	<u>Non-Resident</u>
1. Concession	\$25	\$50
2. Ball Park Use –	\$100/night for	\$200/night for

	Outside Organization	season	Season
3.	Clean Up Deposit	\$50 - refundable	\$75 - refundable
4.	Key Replacement	\$50	\$50
5.	Football Field	\$25/each	\$35/each
6.	Football Youth Program	\$43/week per team	
7.	Gazebo Rental	\$50	\$100
8.	Rink Rental for Reserved Time	\$25/hour for after hours rental	\$50/hour for after hours rental
9.	Restroom	\$25	\$50
10.	Shelter	\$25	\$50
11.	Soccer	\$34/week per team	
12.	Soccer Field	\$25/each	\$35/each
13.	Warming House	\$50	\$100
	<ul style="list-style-type: none"> <li>• <i>St. Francis City Council has the authority to charge an annual fee of \$100 for non-profits.</i></li> <li>• <i>St. Francis City Council has the authority to waive any fees for non-profits.</i></li> </ul>		

N. Community Center.

1.	Resident	\$30/event
2.	Non-Resident	\$55/event
3.	Damage Deposit	\$100
4.	Late Key Return	\$25 if not returned within 2 business days of event
5.	City Purposes	Free
6.	City Benefit:	
a.	St. Francis Lions/Lioness	Fees will be waived for these uses unless the Council specifically determines that the fees should be imposed
b.	St. Francis Senior Citizens Group	
c.	St. Francis Area Jaycees	
d.	St. Francis Youth Association (4-H, Scouts, Hockey, etc.)	
e.	St. Francis Ambassador Program	
f.	St. Francis Area Chamber of Commerce	Donations will be accepted for use of facility unless Council specifically determines that the fees should be imposed
g.	Other Governmental Agencies	
h.	Local Church Organizations	
i.	Local Business/Non-Profit Organizations	
7.	Priority for Use in Event of Conflict:	
a.	City of St. Francis	Based on earliest request if more than
b.	Non-Profit located within City limits	

- |    |  |                      |
|----|--|----------------------|
| c. | Residents (individuals or groups)      | one applicant of the |
| d. | Non-Profit located outside City limits | same class seeks     |
| e. | Non-Residents (individuals or groups)  | conflicting dates    |

O. Division and Use of Property.

	<u>Fee</u>	<u>Escrow</u>
1. Administrative Subdivision	\$200	\$650
2. Annexation	\$250	\$2,000
3. Appeal	\$200	\$250
4. Comprehensive Plan Amendment	\$450	\$2,000
5. Conditional Use Permit	\$350	\$2,000
6. Environmental Review	\$350	\$650
7. Excavation/Fill Permit (Admin)	\$100	\$250
8. Excavation/Fill Permit (IUP)	\$350	\$2,000
9. Home Occupation (IUP)	\$350	\$650
10. Home Occupation (Permitted)	\$ 50	
11. Interim Use	\$350	\$2,000
12. Minor Subdivision	\$350	\$1,000
13. Ordinance Amendment	\$350	\$1,000
14. Planned Unit Development	\$350	\$2,000
15. Rental Housing Licensing:		
a. License	\$150	
b. License Renewal	\$100	
c. License Renewal Multiple Family	\$75	
16. Sign Permit Zoning Review (Admin)	\$75	
17. Sign Permit Zoning Review (Full)	\$250	\$350
18. Sign Permit Zoning Review (Temporary)	\$25	
19. Rezoning	\$350	\$1,000
20. Site and Building Plan Review (Admin)	\$100	\$250
21. Site and Building Plan Review (Regular)	\$350	\$450
22. Street/Utility Easement Vacation	\$350	\$1,000
23. Subdivision:		
a. Sketch Plan	\$300	\$500
b. Preliminary Plat (Rural)	\$400	\$400 + \$125/lot
c. Preliminary Plat (Urban)	\$400	\$425 + \$175/lot
d. Final Plat	\$350	\$650
26. Temporary Habitation Permit	\$200	\$5,000
27. Temporary Outdoor Sales Permit/ License	\$50	
28. Wetland Replacement Plan Review With Plat	\$350	\$650
29. Wetland Replacement Plan and Excavation	\$350	\$650

30. Vacant Building Registration Fee;
    - a. First Year \$125
    - b. Second Year Renewal \$175
    - c. Third Year Renewal \$250
    - d. Fourth Year Renewal \$350
    - e. Fifty Year Renewal and Beyond \$500
  31. Vacant Building Administration Fee \$100
  32. Variance Application \$350 \$1,500
  33. Park Dedication \$2,500/lot
  34. TIF Application/Business Subsidy \$3,000 \$3,000
  35. Landscaping Escrow Admin Fee \$100
- *Applicants are responsible for all costs incurred by the City for consultant fees.*

P. Building Permits.

Valuation Schedule as set by State Statutes 326B.153 BUILDING PERMIT FEES.

Subdivision 1. Building permits.

- (a) Fees for building permits submitted as required in section 326B.106 include:
- (1) the fee as set forth in the fee schedule in paragraph (b) or as adopted by a municipality; and
  - (2) the surcharge required by section 326B.148.
- (b) The total valuation and fee schedule is:
- (1) \$1 to \$500, \$29.50;
  - (2) \$501 to \$2,000, \$28 for the first \$500 plus \$3.70 for each additional \$100 or fraction thereof, to and including \$2,000;
  - (3) \$2,001 to \$25,000, \$83.50 for the first \$2,000 plus \$16.55 for each additional \$1,000 or fraction thereof, to and including \$25,000;
  - (4) \$25,001 to \$50,000, \$464.15 for the first \$25,000 plus \$12 for each additional \$1,000 or fraction thereof, to and including \$50,000;
  - (5) \$50,001 to \$100,000, \$764.15 for the first \$50,000 plus \$8.45 for each additional \$1,000 or fraction thereof, to and including \$100,000;
  - (6) \$100,001 to \$500,000, \$1,186.65 for the first \$100,000 plus \$6.75 for each additional \$1,000 or fraction thereof, to and including \$500,000;
  - (7) \$500,001 to \$1,000,000, \$3,886.65 for the first \$500,000 plus \$5.50 for each additional \$1,000 or fraction thereof, to and including \$1,000,000; and
  - (8) \$1,000,001 and up, \$6,636.65 for the first \$1,000,000 plus \$4.50 for each additional \$1,000 or fraction thereof.

	<u>Fee</u>	<u>Escrow/State</u> <u>Fee</u>
1. Basement Finishes Permit	\$140	**See Below
2. Building Demolition	\$110	**See Below + \$500
3. Building Demolition – Commercial	By Valuation	\$1,000

4.	Building Relocation Permit	\$110	\$Performance Security Required
5.	Contractor Verification Fee	\$10	
6.	Dock Permit	\$50	\$100
7.	Driveway Permit	\$50	\$200 maybe waived by staff
8.	Fence – I		
	a. Residential Over Seven Feet in Height	By Valuation	
	b. Commercial	By Valuation	
9.	Fireplace	\$95	**See Below
10.	Fuel Tank Removal	\$95	**See Below
11.	Engineer's Grading Review of Building Permit	\$140	
12.	Water Heater	\$75	**See Below
13.	HVAC – Heating Installations	\$95/each	**See Below
	HVAC – Air Conditioning	\$55/each	**See Below
14.	Inspections – After Hours	\$70/hour, minimum 2 hours	
15.	Investigation Fee	Not to exceed permit fee	
16.	Irrigation/Wells	\$75 back flow preventer	**See Below
17.	Manufactured Home Setup	By Valuation	
18.	On-Site Septic:		
	a. Type I – IV	\$275	**See Below
	b. Type V	By cost incurred	
	c. Operating Permit	\$125/year	**See Below
19.	Plumbing	\$95	
20.	Pools – Above Ground	\$75	**See Below
	• Letter must be submitted annually stating that an above ground pool will be placed in the same location each year as per the initial site plan.		
21.	Pools – In Ground	By Valuation	
22.	Re-inspection Fee	Not to exceed \$75/trip	
23.	Roofing:		
	a. Residential	\$95	**See Below
	b. Commercial	By Valuation	
24.	Septic System Pumping Verification	\$20	
25.	Siding:		
	a. Residential	\$95	**See Below
	b. Commercial	By Valuation	
26.	Signs	By Valuation	
27.	Solar-Ground Mounted	\$95	
28.	Water Softener Permit:		
	a. Residential	\$55	**See Below
	b. Commercial	By Valuation	



29. Commercial Buildings (Plumbing, Mechanical, Fire Alarm, etc.) By Valuation
- *Anything not listed above will be based on valuation + plan review + State surcharge.*
  - *Permits over 180 days of inactivity are null and void with no refund.*
  - *Permit extension not to exceed ½ permit fee and Building Inspector makes determination.*
  - *No refund on plan review fees; maximum refund is 75% of total fee for permit fees; no refund for State surcharges.*
- \*\* STATE SURCHARGE collected in accordance with MN Statutes 326B.148 which is currently \$1 per permit.**

Q. Escrow Deposits.

1. Urban:
  - a. Curb Box and Meter \$1,500
  - b. Final Grading \$500 - \$1,000
  - c. Litter/Debris Cleanup \$100 - \$300
  - d. 2" Caliper Tree (new) \$300
  - e. Sod \$2,000
  - f. Seeding/Sprinkler \$2,000
  - g. 3" Black Dirt \$500
  - h. Erosion Control in Place \$300
  - i. Street Cleaned \$200
  - j. Driveway Installed \$1,500
2. Rural:
  - a. Final Grading \$500 - \$1,000
  - b. Litter/Debris Cleanup \$100 - \$300
  - c. 2" Caliper Tree (new) \$300
  - d. Sod/Seeding \$300 - \$2,000
  - e. Erosion Control in Place \$300
  - f. Culvert \$1,500
  - g. Driveway Installed \$1,500

R. Utility Fees.

1. Access Charge:
  - a. Sewer Equivalent Connection \$4,284
  - b. Water Equivalent Connection \$3,060
2. Trunk Line Charge:
  - a. Water Trunk Line Availability \$2,956
  - b. Sanitary Sewer Trunk Line Availability \$4,150
3. Tapping and Connection Permits:
  - a. Tapping and Water Connection \$125
  - b. Tapping and Sewer Connection \$125
  - c. Water Connection \$50
  - d. Sewer Connection \$50
4. Meter Deposit:
  - a.  $\frac{3}{4}$ " Cost
  - b. 1" and larger Cost + 10%
5. Water Shutoff (7:00 am - 3:30 pm) \$35
6. Water Reconnect (7:00 am - 3:30 pm) \$35
  - The disconnect and reconnect fee for water shall be waived if a resident leaves for two consecutive months during the time from October to March. This is to promote the idea of shutting off these snowbird residences to reduce the chance for freeze ups and bursting of pipes.
7. Meter Repair (not removal or Installation) Time and materials with \$50 minimum
8. Curb Stop Locate:
  - a. Summer \$25 minimum
  - b. Winter \$50 minimum
9. Curb Stop Driveway Cover Cost
10. Curb Stop Repair Time and materials with \$50 minimum
11. Curb Stop Box Cost
12. Hydrant and Gate Valve Repair Time and materials with \$50 minimum
13. Hydrant Meter Deposit \$800
14. Non-Response to Tagging Notice \$250/month until resolved
15. Unmetered Use of City Water \$200

S. Water Rates. \*11/1/15 /\*12/1/16 Effective Date

1. Monthly Base Fee \$16.50 /\$19.80
  - a. State Test Fee \$.53
2. Charge per 1,000 Gallons Used per Equivalent Connection:
  - a. 0 – 14,999 \$5.10 /\$6.12 equivalent conn
  - b. 15,000 – 29,999 \$5.34 /\$6.42 equivalent conn
  - c. 30,000 – 44,999 \$6.18 /\$7.42 equivalent conn
  - d. 45,000+ \$7.38 /\$8.86 equivalent conn
3. Bulk Water:
  - a. System Access Charge \$50
  - b. Charge per 1,000 Gallons Used \$6.16

T. Sewer Rates.

1. Monthly Base Fee \$17.50 /\$24.50
  2. Charge per 1,000 Gallons Used \$6.86/\$9.60 equivalent
  3. Sewer Users Only Sewer Base Rate + 6,000 Gallons @ Water Rate
- Winter residential sewer rates (November through April billings) are based on actual water consumption used for the month billed.
  - Summer residential sewer rate (May through October billings) are based on the average of water consumption used for the January, February, and March billings. If the winter water usage average is 3,000 gallons or less, the consumption billed will be the actual usage up to a maximum of 3,000 gallons. Any average usage greater than the 3,000 gallons will be billed actual usage up to the minimum average calculated.
  - Note: Consumption amounts are not billed greater than actual usage.

STARTING IN 01/01/2016

Storm Water Rates \$5.00/month/parcel



## SECTION 10

### APPEALS

#### SECTION:

- 2-10-1: Right to Administrative Appeal
- 2-10-2: Rules of Procedures for Appeals and Other Hearings

**2-10-1: RIGHT TO ADMINISTRATIVE APPEAL.** If any person shall be aggrieved by any administrative decision of the City Administrator or any other City official, or any Board or Commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full hearing before the Council upon serving a written request therefore upon the Mayor and City Clerk at least five (5) days prior to any regular Council meeting. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. At such hearing the appellant may present any evidence he/she deems pertinent to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing, may, in the interest of justice or comply with time requirements and on his own motion or the motion of the appellant, the City Administrator, or member of the Council, adjourn the hearing to a more convenient time or place, but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening. (Ord. 229, SS 06-19-17)

**2-10-2: RULES OF PROCEDURE FOR APPEALS AND OTHER HEARINGS.** The Council may adopt by resolution certain written rules of procedure to be followed in all administrative appeals and other hearings to be held before the Council or other bodies authorized to hold hearings and determine questions therein presented. Such rules of procedure shall be effective thirty (30) days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.



## SECTION 11

### ADMINISTRATIVE ENFORCEMENT OF CODE REGULATIONS

(Ord 174, SS, 9-24-12)

#### SECTION:

- 2-11-1: Purpose and Intent
- 2-11-2: General Provisions
- 2-11-3: Procedure
- 2-11-4: Appeal and Hearing
- 2-11-5: Judicial Review
- 2-11-6: Violation A Misdemeanor

**2-11-1: PURPOSE AND INTENT.** The administrative enforcement procedures established within this Chapter are intended to provide the City of St. Francis with an informal, cost-effective and more efficient supplement or alternative to criminal prosecution or civil litigation for certain violations of the adopted City Code. The City of St. Francis retains the right, at its sole discretion, to enforce provisions of this Code by bringing criminal charges or commencing civil litigation in any case where the City determines it is appropriate or necessary, but finds that an administrative process is beneficial to the residents of the City and further finds that that such a process is a legitimate and necessary alternative method of enforcing Code violations.

#### **2-11-2: GENERAL PROVISIONS.**

- A. Administrative Offenses. Any violation of any section or chapter of the City Code, and any violation of the terms and/or conditions of any license, permit, or other approval issued pursuant to the City Code, is an administrative offense that may be subject to an administrative citation and administrative fines.
- B. Continuing Violations. Each day a violation exists constitutes a separate and distinct offense for which a separate penalty can be imposed. The City Administrator can exercise discretion in imposing an administrative fine for more than one day of a continuing offense.
- C. Schedule of Fines. The City Council shall adopt by ordinance, as part of the fee schedule, a schedule of administrative fines for offenses for which an administrative citation is issued. A current fee schedule shall be kept on file at City Hall.
- D. No Limitation on Remedies. Nothing herein is intended or shall require the City to utilize the administrative citation process or otherwise pursue the remedies outlined in this section. The City retains the right to pursue any and all other

remedies authorized by law to enforce the City Code or penalize violations of city ordinances, including, but not limited to, issuance of a stop work order, abatement, criminal prosecution, and/or application for civil penalties or injunctive relief.

- E. Code Compliance Officer. The Code Compliance Officer shall be any person so appointed to carry out such duties so assigned by the City Administrator including but not limited to the Building Official, Zoning Administrator, Public Works Director, City Clerk, Fire Chief, and any member of the Police Department.

### **2-11-3: PROCEDURE.**

- A. Administrative Notice. A Code Compliance Officer may issue, either in person or by United States first class mail, an administrative notice to a person suspected, alleged or known to have committed a code offense and/or to be the owner of property upon which a code offense is being committed. The Administrative Notice shall identify the code offense, the location upon which the code offense is alleged to have occurred or is occurring, and the corrective action for the code offense. The administrative notice may also state that the alleged violator has, at the discretion of the Code Compliance Officer, no more than twenty (20) days to correct or abate the code offense. Immediate compliance may be required upon the existence of a public health or safety condition. If the alleged violator and/or owner of property upon which a code offense is being committed is unable to correct or abate the code offense within the prescribed time, that person may request in writing an extension of no more than thirty (30) additional days from the Code Compliance Officer. Any extension granted by the Code Compliance Officer shall be in writing and shall specifically state the date of expiration, which shall be determined at the discretion of the Code Compliance Officer. If the code offense is not corrected or abated, as outlined in the administrative notice, within the prescribed time or any extension thereto, the Code Compliance Officer may issue a citation, as provided in Section 2-11-3-C.
- B. Exceptions to Administrative Notice. For violations of any of the following sections, the City shall not be required to issues an administrative notice or compliance letter and may proceed directly to an administrative citation as provided for in Section 2-11-3-C:
  - 1. Repeat Offenders. If the same owner or person commits a subsequent violation within twelve (12) months of after an administrative notice or citation has been issued for the same or similar offense, no compliance letter or administrative notice shall be required for the new violation.
  - 2. License Violations. For any license violations, including not having a license, no compliance letter or administrative notice shall be required.



- C. Citation. Upon receiving no response or continued noncompliance following issuance of the administrative notice or code compliance letter as stated in Section 2-11-3-A, the Code Compliance Officer may issue a citation. The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the alleged violation has occurred, either by personal service or by United States first class mail. Said citation shall state the nature of the code offense, the time and date said alleged code offense occurred, the civil penalty applicable to that code offense as set forth in a schedule of civil penalties which shall be adopted by resolution of the City Council from time to time, and the manner for paying the civil penalty or requesting a hearing before a hearing officer to contest the citation.
- D. Responding to a Citation. Once a citation is issued, the alleged violator and/or the owner of the property upon which the alleged violation has occurred shall, within ten (10) days of the time of issuance of the citation, either pay the civil penalty set forth in the citation or request a hearing in writing according to the procedure set forth in Section 2-11-4-A. The civil penalty may be paid either in person at City Hall, or by United States first class mail, postage prepaid and postmarked within said prescribed fourteen (14) days. Payment of the civil penalty shall be deemed to be an admission of the code offense.
- E. Payment of Penalty.
1. Payment of a Penalty and Correction of Violation. If the owner pays the administrative civil penalty and corrects the City Code violation, no further action will be taken against the owner or the owner's real property for that same violation.
  2. Payment of Penalty without Correction of Violation. If the owner pays the administrative civil penalty but fails to correct the City Code violation, the City may issue subsequent administrative citations, initiate criminal proceedings, or initiate any other proceeding or remedies available in order to enforce correction of the City Code violation.
  3. No Payment of Penalty and No Correction of Violation. If the owner fails to pay the administrative civil penalty but fails to correct the City Code violation, the City may do any of the following, or any combination thereof:
    - a. Assess the administrative civil penalty against the property pursuant to Minnesota Statutes Chapter 429.
    - b. Issue a subsequent administrative citation, thereby commencing a new administrative penalties process.
    - c. Initiate criminal proceedings.

- d. Initiate any other enforcement action authorized by law.

#### **2-11-4: APPEAL AND HEARING.**

- A. Requesting a Hearing. Any person receiving an administrative citation may contest the alleged violation and the amount of the administrative civil penalty. In order to contest any part of the administrative citation, the owner or individual contesting the citation must notify the City Clerk in writing within ten (10) calendar days after the citation is mailed or otherwise delivered. The written request shall state the name of the individual, indicate whether they are contesting the alleged violation, the amount of the penalty, or both and must also specify the reason and facts upon which the individual is contesting the citation.
- B. Hearing Officer. The hearing officer shall be a neutral third party appointed by the City Council and shall preside over the hearing and make any judgment as authorized by Section 2-11-4-D.
- C. Conduct at Hearing. A hearing officer shall conduct an informal hearing to determine if a violation has occurred. The hearing officer shall consider the record and any additional evidence presented at the hearing and accepted into the record by the hearing officer before making a determination. The officer shall receive and give weight to evidence, including hearsay evidence that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs. The City will have the burden of proving the existence of a violation and the reasonableness of any required corrective action by a preponderance of the evidence. The determination of the enforcement officer will be given substantial weight by the hearing officer in determining the reasonableness of any required corrective action.
- D. Authority of Hearing Officer. The independent hearing officer has the authority to do any of the following, or a combination thereof:
  - 1. Make a finding that a violation has occurred;
  - 2. Reduce, stay, or waive a scheduled administrative civil penalty either unconditionally or upon compliance with reasonable conditions;
  - 3. Require compliance with the City Code within a specified timeframe;
  - 4. Make a finding that no violation has occurred and dismiss the administrative citation.
- F. Owner/Individual Found in Violation. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed plus an additional

administrative hearing fee as prescribed by the City's Fee Schedule to cover the cost of the hearing within fourteen (14) days of the date of the decision.

- G. Failure to Appear. Failure to appear at the hearing shall result in a default judgment against the party who fails to appear. If the owner fails to appear, the administrative citation shall be sustained. If the City fails to appear, the administrative citation shall be dismissed.

**2-11-5: JUDICIAL REVIEW.** The Hearing Officer's decision is final without any further right of administrative appeal. Further appeal shall be to the Minnesota Court of Appeals under the Minnesota Rules of Civil Procedure.

**2-11-6: VIOLATION A MISDEMEANOR.** The following are misdemeanors, punishable in accordance with state law:

- A. Failure to pay an administrative fine imposed by administrative citation within fourteen (14) days after it has been imposed unless the matter is appealed to the City as provided herein.
- B. Failure to pay an administrative fine within fourteen (14) days after it has been imposed by the hearing officer, or such other time as may be established by the hearing officer, unless the matter is appealed to district court as provided herein. If the final determination in the administrative penalty process is a finding that no violation occurred, then the City may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the City from pursuing a criminal prosecution for a violation for the same provision based on a different set of facts. A different date of violation will constitute a different set of facts.

## CHAPTER 3

### MUNICIPAL AND PUBLIC UTILITIES – RULES AND REGULATIONS, RATES, CHARGES AND COLLECTIONS

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## SECTION 1

### GENERAL PROVISIONS

#### SECTION:

- 3-1-1: Definitions
- 3-1-2: Fixing Rates and Charges for Municipal Utilities
- 3-1-3: Contractual Contents
- 3-1-4: Rules and Regulations Relating to Municipal Utilities
- 3-1-5: Connection or Tapping Prohibited – Delinquent Assessments or Charges
- 3-1-6: Connection and Access Charges
- 3-1-7: Violation a Misdemeanor

**3-1-1: DEFINITIONS.** As used this Code, the following words and terms shall have the meanings stated:

- A. “Company”, “Grantee”, and “Franchisee” mean any public utility system to which a franchise has been granted by the City.
- B. “Consumer” and “Customer” mean any user of a utility.
- C. “Municipal Utility” means any City-owned utility system, including, but not by way of limitation, water and sewerage service.
- D. “Service” means providing a particular utility to a customer or consumer.
- E. “Utility” means all utility services, whether the same to be public City-owned facilities or furnished by public utility companies.

**3-1-2: FIXING RATES AND CHARGES FOR MUNICIPAL UTILITIES.** All rates and charges for municipal utilities, including, but not by the way of limitation, rates for service, permit fees, deposit, connection and meter testing fees, disconnection fees, reconnection fees including penalties for non-payment if any, shall be fixed, determined and amended by the Council and adopted by ordinance as part of the City’s Fee Schedule. Such ordinance, containing the effective date thereof, shall be kept on file and open to inspection in the office of the City Clerk and shall be uniformly enforced. For the purpose of fixing such rates and charges, the Council may categorize and classify under the various types of service, provided, that such categorization and classification shall be included in the resolution authorized by this Section.  
(Ord 170, SS, 10/7/12)

**3-1-3: CONTRACTUAL CONTENTS.** Provisions of this Chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services, and every such consumer be deemed to assent to the same.

**3-1-4: RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES.**

- A. Billing, Payment and Delinquency. All municipal utilities shall be billed monthly and a utilities statement or statements shall be mailed to each consumer. All utilities charges shall be delinquent if they are unpaid at the close of business on the 15<sup>th</sup> day following such billing, provided, that if the 15<sup>th</sup> day shall fall on a Saturday, Sunday or legal holiday, the time shall be extended to the close of business on the next succeeding day on which business is normally transacted. A penalty of ten (10) percent of the delinquent amount shall be added to, and become part of, all delinquent utility bills. Each billing will clearly state the penalty as a percentage rate. Delinquent utility accounts shall result in disconnection within forty-eight (48) hours after mailing notice thereof to the consumer. If service is suspended due to delinquency it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties.
- B. Application, Connection and Sale of Service. Application for municipal utility services shall be made upon forms supplied by the City, and strictly in accordance therewith. No connection shall be made until consent has been received from the City to make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates. (Ord 170, SS, 10/7/12)
- C. Discontinuance of Service. All municipal utilities may be shut off or discontinued whenever it is found that: (Ord 170, SS, 10/7/12)
  - 1. The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code relative thereto, or any connection therewith.
  - 2. Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after notice thereof.
  - 3. There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefore.

4. The City will not shut off water service to a residential unit from October 15<sup>th</sup> through April 15<sup>th</sup> if that shut off would in any way affect the primary heat source of the unit and the present owner or occupant complies with the provisions of state law and regulations.
  5. The Building Official or the Director of Public Works to protect the public health and safety and in order to protect the public water supply and/or private property, may order the City water service immediately disconnected to any property upon determining that any of the following conditions exist:
    - a. The property if vacant;
    - b. The property if unsecured;
    - c. The property is determined to be uninhabitable or unsuitable for occupancy;
    - d. Other utilities to the property providing heat and/or light have been shut off;
    - e. The property has plumbing that is failing or unsafe;
    - f. That running water to the property creates an unsanitary or unsafe condition to anyone who may enter the property; or
    - g. The property owner or occupancy has refused access by authorized officials as authorized by this Section.
  6. If the Public Works Director or designee determines a meter needs reading, inspection, maintenance, or replacement, a notification shall be placed on the property. If the owner or occupier of a premise fails to respond to the order within fourteen (14) days, the City may cause to have a No Response Fee, as established by the Fee Schedule, charged to the property or premise account. After such charge is applied to the property, the City may cause to have the water shut-off.
- D. Ownership of Municipal Utilities. Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances thereto, shall be and remain in the City and no person shall own any part of portion thereof. Provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.
- E. Right of Entry. By applying for, or receiving, a municipal utility service, a customer irrevocably consents and agrees that any City employee acting within the course and scope of his employment may enter into and upon the private



property of the customer, including dwellings and other buildings, at all reasonable times under the circumstances, in or upon which private property a municipal utility, or connection therewith, is installed, for the purpose of inspecting, repairing, reading meters, connecting or disconnecting the municipal utility service.

- F. Meter Test. Whenever a consumer shall request the City to test any utility meter in use by him, such a request shall be accompanied by a cash deposit for each meter to be tested. If any such meter is found to be inaccurate the same shall be replaced with an accurate meter and the deposit thereon refunded. If the meter shall be found to be accurate in its recordings or calculations it shall be reinstalled and deposit shall be retained by the City to defray the cost of such test.

G. Unlawful Acts.

1. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.
2. It is unlawful for any person to make any connection with, opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.
3. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for non-payment of a bill, or for any other reason, without first having obtained a permit to do so from the City.
4. It is unlawful for any person to "jumper" or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume un-metered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

H. Municipal Utility Services and Charges a Lien. (Ord 170, SS, 10/7/12)

1. Payment for all municipal utility (as that term is defined in City Code, Section 3-1-1) service and charges shall be the primary responsibility of the owner of the premises served and shall be billed to him unless otherwise contracted for and authorized in writing by the owner and the tenant, as agent for the owner, and consented to by the City of St. Francis, Minnesota. The City may collect the same in a civil action or, in the alternative and at the option of the City, as otherwise provided in this Subdivision.

2. Each such account is hereby made a lien upon the premises served. All such accounts which are more than thirty (30) days past due may, when authorized by resolution of the Council, be certified by the City Clerk of the City of St. Francis, Minnesota, to the County Auditor, and the City Clerk in so certifying shall specify the amount thereof, the description of the premises served, and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the City along with other taxes.
- I. Notice and Appeal. The City will provide the current owner or occupant notice of a pending shut-off or certification prior to shutting off the water or certifying the unpaid amount and the appeal mechanism in the subdivision. This notice will be by first class mail to the individual's last known address at least twenty (20) days and, if there is no response, a red tag with the appropriate notice will be affixed to the property for a period of seven (7) days. Individuals who receive such a notice may appeal to the City Council by submitting a written appeal no later than thirty (30) calendar days after the initial notice. In addition, individuals who receive such a notice may submit a written request to meet with a City representative at any time prior to the matter being placed before the City Council to discuss the unpaid bill or other reason for shut off or certification.

**3-1-5: CONNECTION OR TAPPING PROHIBITED – DELINQUENT ASSESSMENTS OR CHARGES.** No permit shall be granted to tap or connect with sewer or water mains when any assessment or connection charge for such sewer or water main against the property to be connected is in default or delinquent. If such assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid.

**3-1-6: CONNECTION AND ACCESS CHARGES.** Connection and access charges shall be required to be paid prior to the initiation of service for any utility. The cost of such charges shall be fixed from time to time by Ordinance in the form of the City's Fee Schedule. Such charges shall be reflective of the original cost of improvements to which connection is made, together with appropriate adjustments which reflect current costs for similar improvements shall be paid at the time a connection is made or required to be made to any Sanitary Sewer, Public Water, Storm Sewer, or other Public Improvement by any premise which has not previously contributed to the costs of such Public Improvement. (Ord 170, SS, 10/7/12)

**3-1-7: VIOLATION A MISDEMEANOR.** Every person who violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

## SECTION 2

### RULES AND REGULATIONS RELATING TO WATER SERVICE

(Ord 170, SS, 10/7/12)

#### SECTION:

- 3-2-1: Deficiency of Water and Shutting Off Water
- 3-2-2: Repair of Leaks
- 3-2-3: Abandoned Serviced Penalties
- 3-2-4: Private Service Connections and Maintenance
- 3-2-5: Private Water Supplies
- 3-2-6: Water Use Restrictions
- 3-2-7: Water Emergencies
- 3-2-8: Opening Hydrants
- 3-2-9: Un-metered Service
- 3-2-10: Water Meters and Water Meter Horns
- 3-2-11: Code Requirement
- 3-2-12: Water Connection Charges
- 3-2-13: Backflow Protection
- 3-2-14: Additional Rules and Regulations

**3-2-1: DEFICIENCY OF WATER AND SHUTTING OFF WATER.** The City is not liable for any deficiency or failure in the supply of water to customers whether occasioned by shutting the water off for the purpose of making repairs or connections or by any other cause whatever. In case of fire, or alarm of fire, water may be shut off to insure a supply for fire fighting. In making repairs or construction of new works, water may be shut off at any time and kept off so long as may be necessary.

**3-2-2: REPAIR OF LEAKS.** It is the responsibility of the consumer or owner to maintain the service pipe from the corporation stop, through the curb stop box, and into the house or other building. In case of failure upon the part of any consumer or owner to repair any leak occurring in his/her service pipe within twenty-four (24) hours after oral or written notice has been given the owner or occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid and the water service has been repaired. When the waste of water is great or when damage is likely to result from the leak, the water will be turned off if the repair is not proceeded with immediately. If repairs are necessary to protect public or neighboring properties and not initiated within twenty-four (24) hours after oral and written notice, the City may cause to have the work done at the account holder or property owners' expense.

**3-2-3: ABANDONED SERVICE PENALTIES.** All service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises, served by this service, shall pay the cost of the excavation and subsequent restoration. The City shall perform the actual disconnection and all pipe and appurtenances removed from the street right-of-way shall become the property of the City. When new buildings are erected on the site of old ones, and it is desired to increase the existing water service size, a new permit shall be taken out and the regular tapping charge shall be made as if this were a new service. It is unlawful for any person to cause to allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water, or to save expense in improperly removing such pipe from the main. Also, such improper disposition thereof shall be corrected by the City and the cost incurred shall be borne by the person causing or allowing such work to be performed.

**3-2-4: PRIVATE SERVICE CONNECTIONS AND MAINTENANCE.**

- A. No person may excavate in a public right-of-way to obtain service from a water main, make connection therewith, or for any purpose which will expose a water main unless in receipt of a permit for the connection.
- B. The corporation stop inserted in the distributing pipe must be of the size specified in the permit order and the connection shall be made in a manner consistent with City specifications and standards. Minimum size connection with the water main shall be one-inch in diameter.
- C. Service pipes shall extend from the main through the curb stop box to the inside of the building; or if not taken into a building then to the hydrant or other fixtures which it is intended to supply. A brass ball valve, the same size as the service pipe, shall be installed close to the inside wall of the building, ahead of the meter and well protected from freezing. Service pipes 1 inch in diameter shall be Seamless Copper, Type K, Soft Annealed Copper or Polyethylene Grade PE-3408 or PE-4710 and shall be rated for 200 PSI working pressure, SDR-9, Copper Tube Size. Copper materials shall not be used for services larger than 1 inch in diameter. Service materials for services larger than 2 ½ inches in diameter shall conform to the requirements of Ductile Iron Pipe Class 52 or Polyvinyl Chloride Pipe C-900. Where non-conductive service materials are installed, #12 AWG solid copper or copper clad steel (CCS) wire with 30 mil high density polyethylene (HDPE) insulating jacket shall be installed along the entire length of service pipe. The copper wire shall be terminated such that it is able to be connected to and used for underground locating purposes.
- D. Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than eight (8) feet below

the surface in all cases so arranged as to prevent rupture and stoppage by freezing or other such damage.

- E. Joints on copper tubing shall be flared and kept to a minimum. Joints on polyethylene tubing shall be compression fitted with Type 304 stainless steel pipe inserts/stiffeners. Not more than one (1) joint shall be used for a service up to seventy (70) feet in length. All joints shall be left uncovered until they have been inspected.
- F. The curb stop shall be installed in a manner such that it is accessible from the surface through a curb stop box without digging. The curb stop box shall be installed in a location accessible to the City at all times and in a manner approved by the City. All curb stop boxes shall conform and be maintained to the specifications and standards of the City. All curb stops shall be installed with a stationary operating rod a minimum of 78 inches in length. All valves within curb stop boxes shall be maintained in good working condition at all times. It shall be the responsibility of the applicant, owner, occupant or user to maintain the water service curb stop box for operability and at such height as will ensure that it remains above the finished grade of the land or property. No person shall erect any fence or other structure or plant any tree or other landscaping that would obstruct the use of the curb stop box or cause damage to the same. If the curb stop box needs maintenance or raising or if the area around the curb stop needs clearing for access, the City may cause to have the work done at the expense of the account holder and/or property owner.
- G. Frozen or otherwise damaged service pipes between the corporation stop and the building inclusive of the curb stop box shall be the responsibility of the private property owner. All maintenance, repairs, or other such work to the service pipe shall be done to the specification and standards of the City and require a permit and inspection from the Public Work Director and/or Building Official.
- H. No more than one house or building shall be supplied from one corporation stop.
- I. All piping and connections from the corporation cock and/or the curb stop box to the premise supply piping shall be made under the supervision of a licensed plumber subject to inspection by the City Building Official and/or the Public Works Director or designee. The water meter installation shall be inspected, tested, and the meter sealed by the Public Works Department.
- J. If the property owner requests maintenance services or repairs be performed by the City, or if repairs are necessary to protect public or neighboring properties in an emergency situation, the property owner shall be charged for the costs of the maintenance and/or repairs, including but not limited to any necessary street repairs, concrete, concrete curb and gutter, sidewalk, bituminous trail, turf, etc.

**3-2-5: PRIVATE WATER SUPPLIES.** No water pipe of the City water system shall be connected with any pump, well, pipe, tank or any device that is connected with any other source of water supply and when such are found, the City shall notify the owner or occupant to disconnect the same and, if not immediately done, the City water shall be turned off. Before any new connections to the City system are permitted, the City shall ascertain that no cross-connections will exist when the new connection is made. When a building is connected to “City Water” the private water supply may be used only for such purposes as the City may allow as stated in Section 3-4-9.

**3-2-6: WATER USE RESTRICTIONS.**

- A. A person may water, sprinkle, irrigate, or otherwise use water from the City Water System for lawn areas, grass, or turf (hereinafter referred to as “irrigation” or “irrigate”) only on alternating days between May 1<sup>st</sup> and continuing until September 30<sup>th</sup> of each year. This prohibition is in effect from 10 am until 7 pm each day during this period.
- B. Alternating days means that property with an address ending in an odd number may irrigate only on odd-numbered days of the month and property with an address ending in an even number may irrigate only on even-numbered days of the month.
- C. Upon written request and approval by the City Administrator, or his designee, and subject to such terms and conditions imposed by the City Administrator, or his designee, with respect to such approval, the following persons may be authorized to irrigate or otherwise utilize water from the City’s municipal water system at times other than as permitted in Section 3-2-16 Subdivision A and B hereof:
  - 1. Employees and agents of the City or School District, in such instances wherein lawn, grass, or turf used for play fields or park areas owned and operated by such entities require more frequent irrigation to prevent unreasonable damage thereto.
  - 2. Owners and lessees (their employees and agents) of lands newly sodded or grass seeded which requires irrigation to prevent loss of the new sod, seed, or immature turf or grasses for a period of thirty (30) days, when in receipt of a permit for such activity from the Public Works Director.

**3-2-7: WATER EMERGENCIES.**

- A. Whenever in the judgment of the City Administrator, or his designee, the water pressure and/or available water in the municipal water system reaches a level which endangers the public health or safety of residents and other persons in the

City, he may declare a state of water emergency which shall continue until such time as he shall determine that the danger to public health or safety no longer exists. Forthwith upon the declaration of a state of water emergency notice thereof shall be publically posted, and all orders of the City Administrator, or his designee, issued pursuant thereto shall be enforced after one hour has elapsed from the time of such notice.

- B. During the existence of a state of water emergency the City Administrator, or his designee, may, by order, impose restrictions on sprinkling, irrigation, or other utilization of water from the City's municipal water system including, but not limited to the total prohibition of water use for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses, or either or any of them or the prohibition of such water use on specified days or during certain hours.

**3-2-8: OPENING HYDRANTS.** It is unlawful for any person, other than members of the Fire Department or other person duly authorized by the City, in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the same or in any manner interfere therewith. It is also unlawful for any person so authorized to deliver or offer to be delivered to any other person any hydrant key or wrench, except for the purposes strictly pertaining to their lawful use.

**3-2-9: UN-METERED SERVICE.** In cases where, in the opinion of the Public Works Director, no reasonable manner for metered service is available, a private system user may be granted un-metered service on a temporary basis. The user shall pay the temporary meter fee and fees for the estimated water use based on the judgment of the Public Works Director.

**3-2-10: WATER METERS AND WATER METER HORNS.** All water meters shall be furnished, owned, controlled, and maintained by the City at the expense of the property owner. All repairs of water meters not resulting from normal usage shall be the responsibility of the property owner. All meters in need of replacement, shall be replaced with a remote type which shall be furnished and maintained by the City. All water meters shall be installed in a manner acceptable to the City and the cost of installation shall be the responsibility of the property owner. All five-eighths (5/8) and one (1) inch meters shall be installed in a meter horn with remote wire and remote pad. All meters larger than one (1) inch shall meet City requirements including remote wire and remote pad. All meter installations shall be controlled and inspected by the City and the cost of installation shall be the responsibility of property owner.

**3-2-11: CODE REQUIREMENT.** All piping, connections and appurtenances shall be installed and performed strictly in accordance with the Minnesota Plumbing Code and other standards and specifications of the City. Failure to install or maintain the



same in accordance therewith, or failure to have or permit required inspections shall, upon discovery by the City, be an additional ground for termination of water service to any consumer. The corresponding fees for such permits, as established by the City's Fee Schedule, shall be paid at the time of permit issuance.

**3-2-12: WATER CONNECTION CHARGES.** Connection charges are due to the City upon issuance of a building permit or connection permit and prior to a new occupancy. This fee shall be set by ordinance for each equivalent connection unit. An equivalent connection unit (one E.C.) is established in Section 3-3-8 for development within the City. One single family dwelling is one unit. These Standards may be amended as may be necessary by ordinance.

**3-2-13: BACKFLOW PROTECTION.** Approved devices or assemblies for the protection of the potable water supply must be installed at any plumbing fixture or equipment where backflow or back siphonage may occur and where a minimum air gap cannot be provided between the water outlet to the fixture or equipment and its flood level rim.

- A. Any device or assembly for the prevention of backflow or back siphonage installed, shall have first been certified by a recognized testing laboratory and have a certification number clearly visible on the device. AWWA, ASSE, and USC are the certified labs recognized by the Administrative Authority. These devices must be readily accessible.
- B. The installation of reduced pressure backflow preventers shall be permitted only when a periodic testing and inspection program conducted by qualified, accredited personnel will be provided by an agency acceptable to the administrative authority. Inspection intervals shall not exceed one year, and overhaul intervals shall not exceed five years. The administrative authority may require more frequent testing if deemed necessary to assure protection of the potable water. Backflow preventers shall be inspected frequently after initial installation to assure that they have been properly installed and that debris resulting from piping installation has not interfered with the functioning of the assembly.

**3-2-14: ADDITIONAL RULES AND REGULATIONS.** The Council may, by resolution, adopt such additional rules and regulations relating to placement, size and type of equipment as it, in its discretion, deems necessary or desirable. Copies of such additional rules and regulations shall be kept on file in the office of the City Clerk, and uniformly enforced.

## SECTION 3

### RULES AND REGULATIONS RELATING TO SEWAGE SERVICE

#### SECTION:

- 3-3-1: Definitions
- 3-3-2: Use of Public Sewers Required
- 3-3-3: Constructing Building Sewers and Connections to Public Sewers
- 3-3-4: Repairs to Sewage Service
- 3-3-5: Use of Public Sewers
- 3-3-6: Damage to Public Sewage System
- 3-3-7: Authority and Powers of Inspectors
- 3-3-8: Equivalent Connection Charges
- 3-3-9: User Charges
- 3-3-10: Connection With and Use of City System Without Compliance Prohibited
- 3-3-11: Qualifications of Persons

**3-3-1: DEFINITIONS.** The following terms, as used in this Section, shall have the meanings stated:

- A. "BOD" or "BOD<sub>5</sub>" (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter.
- B. "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning at least one (1) foot outside the building footings.
- C. "Building Sewer Service" means the sewer extension from the building drain to the public sewer main or other place of disposal.
- D. "Collection" means the receiving and conveying of sewage, including any lifting or pumping equipment and/or structures, to the sewage treatment facility.
- E. "Domestic Wastes" includes one or more of the following: human excretions, food and meal preparation, dishwashing, and laundry wastes in less than industrial quantities.
- F. "Equivalent Connection" means a building sewer which produces a flow equivalent to an average single family detached residence contribution calculated at two-hundred seventy-four (274) gallons per day with a BOD loading of 0.60#/day. (Ord 170, SS, 10/7/12)

- G. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.
- H. "Industrial Wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- I. "Industrial User" means any person from whose property industrial waste is discharged into the public sanitary sewer in quantities greater than one thousand (1,000) gallons per day or which produces concentrations of suspended solids or BOD content exceeding the limits herein set for normal sewage.
- J. "Maintenance" means the repairing, replacing, cleaning, repainting or such similar work as is necessary to maintain the sewage system in proper operating condition.
- K. "Natural Outlet" means any outlet into a watercourse, pond, ditch, lake or other body or surface or groundwater.
- L. "Normal Sewage" means sewage in volumes of two-hundred seventy-four (274) or less per day and containing an average concentration of suspended solids below hundred fifty (250) milligrams per liter and a BOD content of below two hundred fifty (250) milligrams per liter. (Ord 170, SS, 10/7/12)
- M. "Operation" means the day-to-day managing, controlling, and maintaining of the sewage system.
- N. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- O. "Properly Shredded Garbage" means the wastes from the preparation, cooking, and dispensing of food 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 one-half (1/2) inch (1.27 centimeters) in any dimension.
- P. "Public Sewer" means a sanitary sewer in which all owners of abutting properties have equal usage rights, and is controlled by public authority.
- Q. "Replacement" means the purchase and installation in the sewage system of an item of real or personal property as a substitute for a like item that has been damaged or not functioning properly.
- R. "Sanitary Sewer" means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

- S. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.
- T. "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.
- U. "Sewerage System" means all facilities for collecting, pumping, treating, and disposing of sewage.
- V. "Slug" means any discharge of water, sewage, or industrial waste 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.
- W. "Storm Drain" or "Storm Sewer" means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- X. "Suspended Solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
- Y. "Unpolluted Water" means clean water uncontaminated by industrial wastes, other wastes, or any substance which renders such water unclean or noxious or impure so as to be actually or potentially harmful or detrimental, or injurious to public health, safety, or welfare to domestic, commercial, industrial or recreational uses; or to livestock, wild animals, birds, fish, or other aquatic life. (Ord 170, SS, 10/7/12)
- Z. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
- AA. "Zones" or "Zone" means any one or more of the following specified zones.
- BB. "Metropolitan Urban Service Area" (MUSA) means the area identified in the Comprehensive Plan as intended for urban services (i.e. sewer and water).
- CC. "Rural Service Area" means the area identified in the Comprehensive Plan as intended for rural services (i.e. septic and well).

### **3-3-2: USE OF PUBLIC SEWERS REQUIRED.**

- A. Deposition of Waste. It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.
- B. Discharge to Natural Outlets. It is unlawful for any person to discharge to any natural outlet or in any area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Section.
- C. Construction of Private Waste Disposal System. Except as hereinafter provided, it is unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage in the MUSA that abuts a public right-of-way or easement in which there is located a public sanitary sewer of the City. Where a hardship exists, the Council may allow the continued use of an existing safe on-site sewage disposal system, as a non-conforming use. No expansion or alteration or repair of these systems will be allowed; should they be necessary, the connection to the public system will then be required within ninety (90) days. Parcels within the MUSA greater than twenty (20) acres in size may install and maintain an on-site sewerage disposal system until that time the parcel is further subdivided.
- D. Connection to the Public Sewerage System. Unless excepted above, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other like purposes situated within the MUSA abutting on any street, alley or right-of-way in which there is located a public sanitary sewer of the City, is hereby required at his expense to install suitable toilet and other wastewater collection facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Section, within ninety (90) days after the date of official notice to do so from the City. Provided, however, that this requirement shall not apply to unheated buildings used exclusively for storage.
- E. Abandonment of Private System. At such time as public sewer becomes available to a property sewered by a private sewage disposal system, as direct connections shall be made to the public sewer in compliance with this Section, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be removed from the site. In cases where the City Engineer finds that removal may cause significant damage in regards to public property, erosion, or mature trees the system may be abandoned, cleaned of sludge, and filled with suitable material, such as clean pit-run gravel or dirt to the satisfaction of the Public Works Director. (Ord 170, SS, 10/7/12)

- F. Extension of Sewer. If a person in the MUSA needs or desires to connect to the City Sewerage System, he may petition the Council to extend sewers to serve his property. The Council shall follow the procedure as specified by statute for the construction of said improvements.
- G. Pretreatment. Sewerage systems users shall provide necessary wastewater treatment as required to comply with this Section and shall achieve compliance with all Federal categorical pre-treat wastewater to a level acceptable to the Public Works Director and/or City Engineer shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Public Works Director and/or City Engineer for review, and shall be acceptable to the Public Works Director and/or City Engineer before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce and effluent acceptable to the Public Works Director and/or City Engineer under the provisions of this Section. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Public Works Director and/or City Engineer prior to the user's initiation of the charges. All records relating to the compliance with pretreatment standards shall be made available by the Public Works Director and/or City Engineer to officials of the EPA or MPCA upon request. (Ord 170, SS, 10/7/12)
- H. Confidential Information. Information and data on a user's water consumption and sewage characteristic obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Public Works Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for users related to this Section, the NPDES Permit, State Disposal System Permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater composition and characteristics will not be recognized as confidential information. Information accepted by the Public Works Director as confidential, shall not be transmitted to any governmental agency or to the general public by the Public Works Director until and unless a ten (10) day notification is given to the user. (Ord 170, SS, 10/7/12)
- I. Sludge Generated. Sludge, floats, skimming, etc., generated by an industrial or commercial pretreatment system shall not be placed into the wastewater disposal

system. Such sludge shall be contained, transported, and disposed of by haulers in accordance with all Federal, State and local regulations.

**3-3-3: CONSTRUCTING BUILDING SEWERS AND CONNECTIONS TO PUBLIC SEWERS. (Ord 170, SS, 10/7/12)**

- A. Unauthorized Work on a Public Sewer. It is unlawful for any person to 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 Public Works Director.
- B. Building Sewer Permits. There shall be three classes of building sewer permits (1) for residential service; (2) service to commercial and industrial firms producing domestic wastes; and, (3) for service to firms producing industrial wastes. The owner or his agent shall make application on a special form furnished by the City which form shall be adopted by the Council and the permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Public Works Director. A permit and inspection fee set by the Council resolution according to the proposed sewer use and connection shall be paid to the City at the time the application is filed. Said permit fees may be changed by the Council, from time to time, by resolution, and a copy of such resolution shall be kept on file in the office of the City Clerk and available for inspection during regular office hours. Any fee charged by the State of Minnesota or any other entity of the State or Federal government shall also be collected and shall be in addition to the fee herein.
- C. Installation and Connection Costs. All costs and expenses incident to the installation and connection of the building sewer service shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. Separate Sewer Service for Each Building. A separate and independent building sewer shall be provided for every principal building. Residential, commercial, and industrial developments with several buildings may require sewers and manholes on private property to provide individual building services. Such a system must be approved by the City Engineer.
- E. Reuse of Old Sewer Services. Old building sewer services may be used in connection with new buildings only when they are found, on examination and/or testing by the owner in a manner acceptable to the Public Works Director, to meet all requirements of this Section.
- F. Building Sewer Service Code Requirements. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, connection to the public sewer, testing,

and backfilling the trench, shall all conform to the requirements of the State Building Code and of other applicable rules and regulations of the City. Care shall be taken to prevent entry of groundwater or any unauthorized waters into the public sewer during construction. For residential service, no floor drains from accessory building or garages, whether attached or detached, shall be connected to the building sewer or sanitary sewer.

- G. Gravity or Lifted Sewage Flow in Sewer Service. Whenever possible, the building sewer service 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 sewage carried by such building drain shall be lifted by an approved means discharged to the building sewer service.
- H. Building Sewer Service Inspection. The applicant for the building sewer service permit shall notify the Public Works Director when the building sewer service is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Public Works Director or his representative.
- I. Public Hazard Protection During Service Installation. All excavations for building sewer service installation shall be adequately guarded with barricades and lights so as to protect the public from hazard as required by the Minnesota Department of Transportation rules and regulations. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

#### **3-3-4: REPAIRS TO SEWAGE SERVICE.**

- A. Whenever any building sewer service becomes clogged, obstructed, broken or out of order between the building and the main, the owner shall forthwith make repairs.
- B. If the owner fails to make the necessary repairs required by Section 3-3-4.A of this Code, the City may cause the work to be performed and bill the property owner accordingly.
- C. Whenever any damage condition of a building sewer service shall cause damage to, or the introduction of soil or foreign matter into, the municipal sewerage system which shall require repairs or cleaning of the system, the property owner shall be responsible for the cost of repairs or cleaning.
- D. Each day, after notice, that a person neglects or fails to repair the building sewer service constitutes a separate violation of the City Code.



**3-3-5: USE OF PUBLIC SEWERS.** (Ord 170, SS, 10/7/12)

**A. Prohibited Discharges.**

1. Unpolluted Waters. No person, firm, or corporation shall discharge or cause to be discharged directly or indirectly any storm water, groundwater, roof runoff, yard drainage, yard fountain water, pond or pool overflow, subsurface drainage, waste from on-site disposal systems, unpolluted cooling or processing water to any sanitary sewer except as permitted by the City or other local unit government. Storm water and all other unpolluted discharge shall be directed to the storm water collection system, except that unpolluted cooling or processing water shall only be so discharged upon approval by the City or other unit of local government.
2. Foreign or Hazardous Substances.
  - a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
  - b. Any water or wastes 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 sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the wastewater treatment works;
  - c. Any water or waste having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment works;
  - d. Solid or viscous substances, either whole or ground, in quantities or of such size capable of causing obstruction to the flow in the sewers, or other interference with the proper continuation of the wastewater facilities but not limited to ashes, cinders, disposable diapers, glass grinding or polishing wastes, stone cuttings or polishing wastes, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails, sanitary napkins, paper dishes, cups, milk containers, and other paper products;
  - e. Noxious or malodorous liquids, gases, or substances which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repairs.

- B. Regulated Discharges. No person shall discharge or cause to be discharged directly or indirectly the following described substances to any public sewer unless in the opinion of the City the discharge will not harm the wastewater facilities, nor cause obstruction to the flow in sewers, nor otherwise endanger life, limb, or public property, nor constitute a nuisance. In forming its opinion as to the acceptability of the wastes, the City may give consideration to such factors as the relation of flows and velocities in the sewers, nature of the sewage treatment process, capacity of the sewage plant, the City's NPDES permit, and other pertinent determinations either on a general basis or as to discharges from individual users or specific discharges, and may prohibit certain discharges from individual users because of unusual concentrations or combinations which may occur. The substances restricted shall be:
1. Any liquid or vapor having a temperature in excess of one hundred fifty (150) degrees F (65 degrees C).
  2. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F. (zero (0) and sixty-five (65) degrees C.).
  3. Any garbage that has not been ground or comminuted to such degree that all particles will be carried freely in suspension under flows normally prevailing in the public sewers, with no particles greater than one-half inch in any dimension.
  4. Any water or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not.
  5. Any water or wastes containing phenols or other taste or odor producing substances which constitute a nuisance or hazard to the structures, equipment, or personnel of the sewage works, or which interfere with the treatment required to meet the requirements of the State or Federal Government, or any other public agency with proper authority to regulate the discharge from the sewage treatment plant.
  6. Any radioactive wastes or isotopes of such half-life or concentration that they are not in compliance with regulations issued by the appropriate authority having control over their use or may cause damage or hazards to the treatment works or personnel operating it.
  7. Any water or wastes having a pH in excess of 9.5.
  8. Materials which exert or cause:

- a. Unusual concentrations of suspended solids, (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
  - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works.
  - d. Unusual volume of flow or concentration of wastes constituting a slug.
  - e. Water or water containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the NPDES Permit, or requirements of other governmental agencies having jurisdiction over discharge from the sewage treatment plant.
- C. Response to Improper Discharge. If any water or wastes are discharged, or are proposed to be discharged directly or indirectly to the public sewers, which water or wastes do not meet the standards set out in or promulgated under this Section, or which in the jurisdiction of the City may have a deleterious effect upon the treatment works, processes, equipment, or receiving waters, or which otherwise create a hazard to life, or constitute a public nuisance, the City may take all or any of the following steps:
- 1. Refuse to accept the discharges.
  - 2. Require control over the quantities and rates of discharge.
  - 3. Require pretreatment to an acceptable condition for the discharge to the public sewers. The design and installation of the plant and equipment for pretreatment of equalization of flows shall be subject to the review and approval of the City, and subject to the requirements of 40 CFR 403, entitled "Pretreatment Standards", and the Minnesota Pollution Control Agency.
  - 4. Require payment to cover the added cost of handling or treating the wastes.

- D. Interceptors. Grease, oil, and mud interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in this Chapter, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection.
- E. Preliminary Treatment or Flow Equalization Facilities. Where preliminary treatment or flow equalization facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- F. Testing.
1. Required. When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure and equipment, when required, shall be constructed at the owner's expense in accordance with plans approved by the City and shall be maintained by the owner so as to be safe and accessible at all times.
  2. Standards. All measurements, tests, and analyses of the characteristics of water and waste to which reference is made in this Chapter shall be determined in accordance with 40 CFR 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants"; the latest edition of Standard Methods For the Examination Of Water and Wastewater, and shall be determined at the control structure provided, or upon suitable samples taken at the control structure. In the event that no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public sewer from the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effluent constituents and their effect upon the treatment works and to determine the existence of hazards to life, health and property. Sampling methods location, times, duration, and frequencies are to be determined on an individual basis subject to approval by the City.
- G. Industrial Waste. The owner of any property serviced by a building sewer carrying industrial wastes shall, at the discretion of the City, be required to provide laboratory measurements, tests, and analyses of waters or wastes to illustrate compliance with this Chapter 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 analyses

to be performed by the owner shall be as stipulated by the City. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the Federal, State and local standards are being met. The owner shall bear the expense of all measurements, analyses 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 outside laboratory.

- H. Special Agreements or Arrangements with City. No statement contained in this Subdivision 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, subject to payments for additional capital equipment and/or operating and maintenance costs therefore, by the industrial concern.
- I. Discharged Waste Sample Gathering. Commercial and industrial users with other than normal sewage shall permit the monthly gathering of samples of their discharged wastes by the Public Works Director or his authorized representative.
- J. Required Daylighting. All sump pumps and garage floor drains shall be daylighted to prove the discharge is not being put into the sanitary sewer system. The discharge pipes from both shall be directed away from houses/principal structures on neighboring properties and wetlands.

### **3-3-6: DAMAGE TO THE PUBLIC SEWAGE SYSTEM.**

- A. It is unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the sewerage system.
- B. It is unlawful for any person, having charge of any building or other premises which drains into the municipal sewerage system, to permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer.

### **3-3-7: AUTHORITY AND POWERS OF INSPECTORS. (Ord 170, SS, 10/7/12)**

- A. Permission to Enter Onto Private Property for Observation and Testing. The Public Works Director and other 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 in accordance with the provisions of this Section. The Public Works Director shall have no authority to inquire into any proprietary processes in metallurgy, chemical manufacturing, refining, paper making, ceramics, or similar industries

beyond the technical information required for the proper receiving, conveying and treatment of the particular waste.

- B. Observation of Safety Rules by City Employees. While performing the necessary work on private properties referred to herein, the Public Works Director or duly authorized employees of the City shall observe all 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 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.
- C. Inspection, Sampling, Measurement and Maintenance on Private Property. The Public Works Director and other 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 not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewerage system lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of duly negotiated easement pertaining to the private property involved.

**3-3-8: EQUIVALENT CONNECTION CHARGES. (Ord 170, SS, 10/7/12)**

- A. Equivalent Connection Charge Definition and Application. A sum of money hereinafter termed "the equivalent connection charge" is to be collected for the purpose of providing funding necessary for the construction of the sewerage system and additions or extensions thereto, and for payment of principal and interest due or accruing on bonds and other obligations issued or incurred to finance such improvements. This sum of money is hereby charged with respect to every lot, parcel of land, buildings or premises within the MUSA that abuts a public right-of-way or easement in which there is located a public sanitary sewer of the City. Such charge is made for the privilege of making a connection, direct or indirect, to the City's facilities for the collections and treatment of sewage, industrial waste and water or other liquid discharged from such premises.
- B. Payment of Connection Charges. Connection charges are payable at the time of the building permit issuance. The Building Inspector shall not issue a building permit until such connection charge is paid. For any building permit issued prior to the effective date of this Section, in which the connection has not been made to the Public Sewerage System, connection charges are then payable prior to the time of connection or by such date as stipulated by the Council. For existing

buildings connection charges are payable upon application for a connection permit.

- C. Application and Permit for a Connection. No connection from any premises to the disposal system is authorized without there being first obtained for such connection a permit issued by the City. No permit may be obtained from the City, and no representative of the City is authorized to issue a permit for connection unless and until an authorized representative of the City receives an application for such connection, determines and establishes the type of connection to be made and receives the equivalent connection fee as required. The City shall prepare, provide for, and furnish any form and instrument found necessary to the connection applications and permits of the City and perform all acts reasonably required with respect thereto. Applications and permits shall be uniform, in accordance with this Section.
- D. Increased Connection Charges Based on Measurement. The determination and establishment in the first instance of the equivalent connection charge represented by a connection, especially when made by estimate based upon representations of the owner or occupant of the premises is at all times subject to further determination and establishment after the connection has been made and determined by an actual measurement and/or analysis by the Public Works Director of the sewage or waste discharge from such connection entering into the system of the City. The receipt and acceptance by the City of any money paid and received by the City, as previously imposed does not bar the City's right to payment of the correct amount of money due therefore, as may be determined and established by actual measurement; and the City's right to recover therefore is not impaired. After a connection has been made and the connection charge established, imposed and paid, no diminution in discharge from the premises shall entitle the owner (or occupant) against the City to a reduction, reimbursement or refund with respect to the connection charge imposed and paid.
- E. Computation of Connection Charges. Connection charges are due to the City upon issuance of a building and/or connection\_permit. This fee shall be set by Council resolution for each equivalent connection unit. An equivalent connection unit (one E.C.) is established as the anticipated flow from a single family residence as referenced herein. City hereby adopts by reference and incorporates herein Appendix A of the Metropolitan Council Environmental Services (MCES) Sewer Availability Charge Procedure Manual as may be amended in the future. A copy of said document and amendments thereto shall be kept on file in the office of the City Clerk for reference and open to public inspection during regular office hours. In cases where said document references MCES or MCES Staff shall be interpreted to mean City of St. Francis or City of St. Francis Staff respectively.

- F. **Determination of Equivalent Connection for Unlisted Uses.** The connection unit for those building uses not included in Subparagraph E, above, shall be determined by the Council after a report from the City Engineer. All non-residential property uses shall have a minimum of one (1) equivalent connection. The City shall supply appropriate forms to those required to get approval and shall submit the completed form to the City Clerk. No building permit may be issued until the Public Works Director or City Engineer has designated and transmitted to the City Clerk the connection unit assignment and the fee has been collected. The Public Works Director shall review actual sewage flow one (1) year after the initial discharge, and the City may impose such additional connection charges in accordance with the provisions of Section 3-3-8-D of this Code.
- G. **Application of Funds.** The funds received from the collection of connection charges authorized by this Subdivision shall be used to provide funds for the payment of principal and interest on obligations incurred to finance the cost of constructing improvements to the City sanitary sewerage system as prescribed by resolutions or covenants authorizing or securing such obligations; and to provide funds for the reasonable requirements of extending, improving and/or replacing City sanitary sewerage facilities. These funds shall be disbursed by Council resolution.

### **3-3-9: USER CHARGES.**

- A. **Purpose of User Charges.** For the purpose of providing monies necessary to the construction, maintenance and operation of the sewerage system of the City as well as additions thereto, or extensions thereof, including payment of principal and interest due or accruing on bonds and other obligations issued or incurred to finance such construction, maintenance, and operation, there is hereby charged a “user charge” to be collected by the City with respect to each lot, parcel of land, building or premises, having any connection, direct or indirect, with the disposal system of the City or otherwise discharging sewage industrial waste, water or other waste directly or indirectly into the City disposal system. The “user charge” is to be paid at an interval as determined by the City commencing with connection and continuing (unless for good cause, waived or excused by the Council) for as long as the premises remain connected, whether or not such connection is actively used for discharge of sewage or waste during any particular period of time.
- B. **Computation of User Charges.** Charges for sewer use shall be paid by the user to the City or its designated agent according to a rate, established by Council resolution. A copy of the rate shall be kept in the office of the City Clerk/Treasurer and open to public inspection during regular office hours.



- C. **User Charge Surcharge.** In the event the Council makes an industrial waste surcharge, such surcharge shall be charged by the City to the designated industrial user causing such discharge. Such surcharge shall be in addition to other charges required herein and shall be based on rate of flow in gallons per day, strength of sewage in BOD, and suspended solids in parts per million. If unusual chemicals or substance are in the industrial waste the charge shall be based on the actual collection and treatment costs. The City in the future may consider United States Environmental Protection Agency funding for expansion of the sewage treatment plant. Federal regulations require the recovery of such funds expended for industrial sewage capacity (Industrial Cost Recovery) and the return of those funds to the Federal government. Industrial users will be charged on the basis of the above sewage characteristics over twenty (20) years to recover each user's share of the expansion cost. The Council shall collect, invest, and transmit to the U.S.E.P.A. such industrial user charges according to Federal regulations.
- D. The City or its designated agent shall compute the amount due the City for service charges and render a statement thereof at an interval as determined by the City to the owner of any premises served. All amounts due hereunder shall be payable to the office of the City Clerk/Treasurer, City or its designated agent.
- E. **Permanence of User Charge.** A connection once made shall thereafter be considered in continual use, except and unless the building or facility is completely removed and the building sewer service capped both in a manner approved by the City. The "user charge" imposed shall be collected by the City (with respect to such connection) for each monthly period of time that such connection exists, whether such connection is then being actively used or otherwise. Such "user charge" shall be promptly paid when due by the owner (or occupant) of the premises affected directly to the City for the monthly period of use represented by such payment. The Council may establish a schedule of additional charges for late payment of user charges.
- F. **Application of Funds.** The funds received from the collection of charges authorized by this Subdivision shall be deposited, as collected, in a fund known as the Sewer and Water Operating Fund and shall be disbursed to meet the costs of operating and maintaining the sewage disposal pumping stations and facilities.

**3-3-10: CONNECTION WITH AND USE OF CITY SYSTEM WITHOUT COMPLIANCE PROHIBITED.** No connection to the sewage disposal system shall be made (directly or indirectly) from any premises, and no use of a connection from the premises to the system, shall be continued in use except in strict compliance with the provisions of this Section, whether as to connection or use of the City system or payment of charges imposed and to be collected with respect thereto, subjects an

offender to a disconnection and termination of use, claim for loss or damage sustained by the City, and also all provisos and penalties imposed by law.

**3-3-11: QUALIFICATIONS OF PERSONS.** Any person engaged in the laying of or building public sewers shall be qualified to perform such work and be familiar with all laws and regulations of the State of Minnesota Department of Health, Pollution Control Agency, Plumbing Code, and City Code provisions. The contractor shall also place on file with the City certificated of insurance showing that he is covered, by workmen's compensation in the amount required by statute, and public liability and property damage in the amount of \$100,000.00 per person and \$300,000.00 per incident for injuries, including accidental death of any one person, and property damage insurance in an amount of not less than \$100,000.00 per incident.

- A. Performance Bond. Each contractor shall provide the City with one of the following: (1) If master plumber and has State license a copy thereof; (2) Non-Master - \$2,000.00 bond; (3) Excavation - \$2,000.00 bond. The intent for this requirement is to assure that installations shall comply with all applicable laws and that the contractor shall pay for any and all materials and labor for such work.
- B. Connection to Public Sewer of Privately Laid Sewer. A property owner may lay sewer on his property but a licensed sewer layer must make the connection to the City Sewerage System.
- C. Failure of Privately Laid Sewer to Meet Requirements of this Section. If the work is done by a property owner on his own premises and does not meet the requirements of this Section and he cannot perform the work to comply with the requirements as instructed by the Inspector, he shall engage a licensed sewer layer to install the connection. Failure to do so will be considered just cause for the City to refuse him a sewer connection.



## SECTION 4

### **RULES AND REGULATIONS RELATING TO INDIVIDUAL ON-SITE SEWAGE TREATMENT SYSTEMS**

(Ord 170, SS, 10/7/12)

#### SECTION:

- 3-4-1: Purpose, Applicability and Authority
- 3-4-2: General Provisions
- 3-4-3: Standards Adopted
- 3-4-4: Permits
- 3-4-5: Violations and Penalties
- 3-4-6: Reserved
- 3-4-7: Reserved
- 3-4-8: Reserved
- 3-4-9: Private Well Regulations

#### **3-4-1: PURPOSE, APPLICABILITY, AND AUTHORITY.** (Ord. 195, Adopted 5/5/14, Effective 6/8/14)

- A. Purpose. It is the purpose and intent of this ordinance to establish standards for the design, location, construction, operation, and maintenance of Subsurface Sewage Treatment Systems (SSTS).
- B. Applicability. The sewer provisions of this ordinance shall apply to any premises in the City that are not served by the municipal wastewater treatment system.
- C. Authority. This ordinance is adopted pursuant to the authorization and requirements contained in Minnesota Statutes §145A.05, 115.55 and Minnesota Administrative Rules Chapter 7082.

#### **3-4-2: GENERAL PROVISIONS.** (Ord. 195, Adopted 5/5/14, Effective 6/8/14)

- A. Treatment Required. All sewage generated in unsewered areas shall be treated and dispersed by an approved SSTS or a system permitted by the Minnesota Pollution Control Agency.
- B. Administration. This Ordinance shall be administered by the St. Francis City Building Official or any such designee of the Building Official or City Administrator.
- C. Compliance. No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface

sewage treatment system, except in full compliance with the provisions of this ordinance.

- D. Conditions. Violation of any condition imposed by the City on a license, permit, or variance, shall be deemed a violation of this ordinance and subject to the penalty provisions set forth in this ordinance.
- E. Site Evaluation, System Design, Construction, Inspection, and Servicing. Site evaluation, and system design, construction, inspection and system servicing shall be performed by Minnesota Pollution Control Agency licensed SSTs businesses or qualified employees of local governments or persons exempt from licensing in Minn. R. 7083.0700. For lots platted after April 1, 1996, a design shall evaluate and locate space for a second soil treatment area.
- F. Inspection. No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the Building Official. If any part of the system is covered before being inspected and approved as herein provided, it shall be uncovered upon the direction of the Building Official. The Building Official shall cause such inspections as are necessary to determine compliance with this ordinance. It shall be the responsibility of the permittee to notify the Building Official that the system is ready for inspection. If the integrity of the system is threatened by adverse weather if left open and the Building Official is unable to conduct an inspection, the permittee may, after receiving permission from the Building Official document compliance with the ordinance by photographic means that show said compliance and submit that evidence to the Building Official prior to final approval being sought.
- G. Compliance Inspection Required. A SSTs compliance inspection is required:
  - 1. For a new or replacement SSTs.
  - 2. When altering an existing structure to add a bedroom.
  - 3. When a parcel having an existing system undergoes development, subdivision, or split.
- H. Imminent Public Health and Safety Threat; Failing System; and Surface Discharge.
  - 1. A subsurface sewage treatment system which poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the Building Official and be brought into compliance with this ordinance in accordance with a schedule established by the Building Official, which schedule will not exceed ten (10) months.

2. A failing system, an SSTS that is not protective of groundwater, shall be brought into compliance within twenty-four (24) months after receiving notice from the Building Official.
  3. An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.
- I. Conflict Resolution. For SSTS systems regulated under this Ordinance, conflicts and other technical disputes over new construction, replacement and existing systems will be managed in accordance with Minnesota Rules 7082.0700 Subpart 5.
- J. Septic Tank Maintenance.
1. Periodic Maintenance Required. The owner of a sewage tank or tanks, shall regularly, but not less frequently than every three years, inspect the tank(s) and measure the accumulations of sludge and scum by an individual licensed to do such work in the State of Minnesota. If the system is pumped, measurement is not needed. The owner shall remove and sanitarily dispose of septage whenever the top of the sludge layer is less than twelve (12) inches below the bottom of the outlet baffle or the bottom of the scum layer is less than three (3) inches above the bottom of the outlet baffle. Removal of septage shall include complete removal of scum and sludge.
  2. Maintenance Record Required. Maintenance activities are required to be recorded on forms supplied by the City of St. Francis and submitted to the City within thirty (30) days of the maintenance activity. The maintenance record shall be supplied by an individual licensed by the state to do such work. One copy of the maintenance record shall be given to the City and one to the property owner. A recording fee shall be paid in accordance with the City's Fee Schedule.
- K. Non-Complying Systems. Existing systems which are non-complying, but not an imminent health or safety threat, failing, or discharging to surface, may continue in use so long as the use is not changed or expanded. If the use changes or is expanded, the non-complying elements of the existing system must be brought into compliance.
- L. Non-Complying Work. New individual sewage treatment system construction that is non-compliant, or other work on a system that is non-complying, must be brought into compliance with this ordinance in accordance with a schedule established by the Building Official, which schedule will not exceed seven (7) days unless the Building Official finds extenuating circumstances.

- M. Change In Use. A Certificate of Compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the system has changed or been altered.
- N. Setback Reduction. Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system on an existing developed parcel of real property, the Building Official may reduce property line and building setbacks and system sizing requirements provided said reduction does not endanger or unreasonably infringe on adjacent properties and with the concurrence of the affected properties. In no instance will a setback reduction be allowed from the standards of Section 10-82-4.B.6 except in cases where a variance is approved following the procedure established by Section 10-82-9.D.
- O. Floodplain. An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted provided that the design complies with this ordinance and all of the rules and statutes incorporated by reference.
- P. Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency.

**3-4-3: STANDARDS ADOPTED.** (Ord. 195, Adopted 5/5/14, Effective 6/8/14)

- A. Minnesota Rules Adopted. Minnesota Rules, Chapters 7080 and 7081, that are in effect on the date of passage of this ordinance, relating to subsurface sewage treatment systems, are hereby adopted by reference and made a part of this ordinance as if fully set forth herein.
- B. Rules Amended. The rules, adopted in Section 3.01 are amended as follows:
  - 1. Compliance Inspection – Fifteen (15) Percent Vertical Separation Reduction. MR 7080.1500 Subp. 4D is amended to allow fifteen (15) percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling and variable interpretation of soil characteristics.
- C. Holding Tanks. Holding tanks may be allowed for the following applications: as replacement to a failing existing system, an SSTS that poses an imminent threat to public health and safety, or for an existing lot in which a SSTS cannot feasibly be installed and the Building Official finds extenuating circumstances. Holding tanks require an operating permit as which defines routine maintenance activities as approved by the City Building Official. Failure to adhere to the operating permit is a violation of this Ordinance.

- D. System Abandonment. An SSTS, or component thereof, that is no longer intended to be used must be abandoned in accordance with MN Rules 7080.2500. Replacement systems which result in discontinued use of any or all existing components shall initiate requirement of maintenance recoding and abandonment procedures as specified in MN Rules 7080.2500. The standards in Section 3-3-2.E shall also be followed when a system is abandoned due to the property being connected to the public sewer system.

**3-4-4: PERMITS.** (Ord. 195, Adopted 5/5/14, Effective 6/8/14)

- A. Permit Required. No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the Building Official. No person shall construct, alter, extend, convert, or modify any structure which is or will utilize subsurface sewage treatment system without first obtaining a permit.
1. All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing pursuant to MN Rules 7083.0700. Permit applications shall be submitted by the person doing the individual subsurface sewage treatment system construction on forms provided by the Building Official and accompanied by required site and design data, and permit fees.
  2. Permits shall only be issued to the person doing the individual sewage treatment system construction.
  3. Permit applications for new and replacement SSTS shall include a management plan for the owner that includes a schedule for septic tank maintenance.
  4. A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components or otherwise change the original system's design, layout, or function.
- B. Operating Permit. An operating permit shall be required of all owners of new holding tanks, Type IV and V systems; MSTS and other SSTS that the Building Official has determined requires operational oversight.
1. Application. Application for an operating permit shall be made on a form provided by the Building Official.
  2. Holding Tanks. The owner of holding tanks installed after the effective date of this Ordinance shall provide the Building Official with a copy of a



contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

**3-4-5: VIOLATIONS AND PENALTIES.** The City may seek to have violations of this Ordinance corrected by any means found in the City Code including, but not limited to: (Ord. 195, Adopted 5/5/14, Effective 6/8/14)

- A. Misdemeanor. Any person who fails to comply with the provisions of this ordinance may be charged with a misdemeanor and upon conviction thereof, shall be punished therefore, as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- B. Injunctive Relief. In the event of a violation or a threat of violation of this ordinance, the Building Official may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations; and the City Attorney may institute a civil action.
- C. Civil Action. In the event of a violation of this ordinance, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the City Attorney may institute such action.

**3-4-6: RESERVED.** (Ord. 195, Adopted 5/5/14, Effective 6/8/14)

**3-4-7: RESERVED.** (Ord. 195, Adopted 5/5/14, Effective 6/8/14)

**3-4-8: RESERVED.** (Ord. 195, Adopted 5/5/14, Effective 6/8/14)

**3-4-9: PRIVATE WELL REGULATIONS.**

- A. All wells shall be installed and maintained in compliance with all State and County regulations.
- B. Upon connection to City Water, any existing well on site shall be sealed and properly abandoned unless granted a permit as set forth in this Section.
- C. Permits for irrigation wells for Commercial, Industrial, Institutional, or Multi-Family users in the MUSA may be approved by the Public Works Director in the following instances:
  - 1. The proposed well is consistent with the City's Wellhead Protection Plan.

2. There shall be no cross connections or possible cross connections with the City Water system.
  3. The well shall be used for exterior landscape irrigation purposes only.
  4. There shall be only one well per irrigation system.
  5. Adequate backflow prevention measures have been taken.
  6. Users shall comply with all watering restrictions found in Sections 3-2-6 and 3-2-7.
  7. All requirements by the State and/or County are met.
- D. Permits for drive point irrigation wells in the MUSA may be approved by the Public Works Director in the following instances:
1. There shall be no cross connections or possible cross connections with the City Water system.
  2. The well shall be used for exterior landscape irrigation purposes only.
  3. There shall be only one well per parcel.
  4. Users shall comply with all watering restrictions found in Sections 3-2-6 and 3-2-7.
  5. All requirements by the State and/or County are met.
  6. The drive point well shall not impair or endanger the City's Wellhead Management Area.



## SECTION 5

### TRUNK AREA FEES

#### SECTION:

- 3-5-1: Trunk Area
- 3-5-2: Trunk Sanitary Sewer Area Fee
- 3-5-3: Trunk Watermain Area Fee

**3-5-1: TRUNK AREA.** The City hereby establishes a Trunk Area consisting of the following identified parcels:

30-34-24-22-0005; 30-34-24-23-0002; 30-34-24-23-0005; 30-34-24-22-0002; 30-34-24-21-0002; 30-34-24-24-0004; 30-34-24-24-0005; 30-34-24-13-0002; 30-34-24-13-0004; 30-34-24-13-0007; 30-34-24-13-0006; 30-34-24-14-0006; 30-34-24-14-0007; 30-34-24-14-0002; 30-34-24-14-0003; 30-34-24-11-0006; 30-34-24-11-0005; 30-34-24-11-0003; 30-34-24-11-0004; 30-34-24-12-0006; 30-34-24-12-0007; 30-34-24-12-0004; 30-34-24-12-0002; 30-34-24-21-0003; 29-34-24-33-0001; 29-34-24-32-0001; 29-34-24-31-0001; 29-34-24-23-0002; 29-34-24-23-0003; 29-34-24-23-0004; 29-34-24-22-0002; 29-34-24-22-0003; 29-34-24-21-0001; 29-34-24-12-0005; 29-34-24-12-0006; 29-34-24-12-0002; 29-34-24-12-0003; 29-34-24-12-0017; 29-34-24-12-0018; 29-34-24-12-0019; 29-34-24-12-0004; 29-34-24-12-0020; 29-34-24-12-0021; 29-34-24-12-0022; 29-34-24-12-0023; 29-34-24-13-0001; 29-34-24-13-0003; 29-34-24-13-0011; 29-34-24-13-0007; 29-34-24-13-0008; 29-34-24-13-0009; 29-34-24-13-0010; 29-34-24-12-0007; 29-34-24-12-0008; 29-34-24-12-0009; 29-34-24-12-0026; 29-34-24-12-0012; 29-34-24-12-0013; 29-34-24-12-0014; 29-34-24-12-0024; 29-34-24-11-0002; 29-34-24-11-0003; 29-34-24-11-0004; 29-34-24-11-0013; 29-34-24-11-0012; 30-34-24-31-0001; 30-34-24-31-0002; 30-34-24-31-0004; 30-34-24-31-0005; 30-34-24-31-0006; 30-34-24-31-0007; 30-34-24-42-0001; 30-34-24-41-0001; 30-34-24-41-0002; 30-34-24-43-0001; 30-34-24-44-0001

**3-5-2: TRUNK SANITARY SEWER AREA FEE.** The City hereby adopts a Trunk Sanitary Sewer Area Fee in the amount of five thousand seventy five dollars (\$5,075) per acre. This fee shall be applicable to the Trunk Highway 47 sewer and water service area.

**3-5-3: TRUNK WATERMAIN AREA FEE.** The City hereby adopts a Trunk Watermain Area Fee in the amount of one thousand three hundred twenty dollars (\$1,320) per acre. This fee shall be applicable to the Trunk Highway 47 sewer and water service area.

**CHAPTER 4**  
**BUILDING REGULATIONS AND PERMITS**

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## SECTION 1

### BUILDING REGULATIONS AND PERMITS

#### SECTION:

- 4-1-1: Building Code Adopted by Reference
- 4-1-2: Building Permits Required
- 4-1-3: Permits and Fees
- 4-1-4: Permits and Special Requirements for Moving Buildings
- 4-1-5: Completion of Exterior Work
- 4-1-6: Temporary Habitation

#### **4-1-1: BUILDING CODE ADOPTED BY REFERENCE.**

- A. The Minnesota State Building Code (SBC), as adopted by the Commissioner of Administration 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 Administration, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance as if fully set out herein. 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 Statute 16B.62 subdivision 1 when so established by this ordinance. The code enforcement agency of the City is called the Building Official. This code shall be enforced by the Minnesota Certified Building Official designated by the City to administer the code (Minnesota Statute 16B.65) Subdivision 1. (Ord 80, SS, 12-15-2003)
- B. Building Code Optional Chapters. The Minnesota State Building Code, established pursuant to Minnesota Statutes 16B.59 to 16B.75 allows the Municipality to adopt the reference and enforce certain optional chapter of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code area hereby adopted and incorporated as part of the building code for this municipality.
  - 1. Chapter 1335, Flood proofing Regulations, parts 1335.0600 to 1335.1200.(Ord 80, SS, 12-15-2003; Ord 47, SS, 2-1-1999; Ord 37, SS, 8-7-1995)

**4-1-2: BUILDING PERMITS REQUIRED.** It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any

building or structure, or any part of portion thereof, including but not limited to; the plumbing, electrical, ventilating, heating or air conditioning systems therein, or cause the same to be done, without first obtaining a separate building or mechanical permit for each such building, structure or mechanical component from the City. A violation of the code is a misdemeanor (Minnesota Statute 16B.69). (Ord 80, SS, 12-15-2003; Ord 58, SS, 2-1-1999; Ord 37, SS, 8-7-1995)

- A. Premature Issuance. The City shall not approve any permits for property that has not been granted a designation on the City's Official Zoning Map. (Ord 137, SS, 8-3-2009)

**4-1-3: PERMITS AND FEES.** The issuance of permits and the collection of fees shall be as authorized in Minnesota statute 16B.62 subdivision 1 and as provided for in chapter 1 of the 1997 Uniform Building Code and Minnesota rules parts 1305.0106 and 1305.0107. 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. (Ord 80, SS, 12-15-2003; Ord 58, SS, 2-1-1999; Ord 37, SS, 8-7-1995; Ord 211, SS 12-21-2015)

**4-1-4: PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.**

- A. Definitions. The following terms, as used in this Section, shall have the meanings stated:
1. "Highway" means a public thoroughfare for vehicular traffic which is a State trunk highway, County State-aid highway, or County road.
  2. "Street" means a public thoroughfare for vehicular traffic which is not a State trunk highway, County State-aid highway or County road.
  3. "Moving Permit" means a document allowing the use of a street or highway for the purpose of moving a building.
  4. "Highway Moving Permit" means a permit to move a building on a highway for which a fee is charged which does not include route approval, but does include regulation of activities which do not involve the use of the highway; which activities include, but are not limited to, repairs or alterations to a municipal utility required by reason of such movement.
  5. "Street Moving Permit" means a permit to move a building on a street for which a fee is charged which does include route approval, together with use of the street and activities including, but not limited to, repairs or alteration to a municipal utility required by reason of such movement.



6. "Combined Moving Permit" means a permit to move a building on both a street and a highway.
- B. Application. The application for a moving permit shall state the dimensions, weight, and approximate loaded height of the structure or building proposed to be moved, the place from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and address of the mover, and the municipal utility and public property repairs or alterations that will be required by reason of such movement. In the case of a street moving permit or combined moving permit the application shall also state the size and weight of the structure or building proposed to be moved and the street alterations or repairs that will be required by reason of such movement.
- C. Permit and Fee. The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the State of Minnesota, except that a permit may be issued to a person moving his own building, or a person moving a building which does not exceed sixteen (16) feet in width, twenty-four (24) feet in length, or fourteen (14) feet in loaded height. Fees to be charged shall be separate for each of the following: (1) a moving permit to cover use of streets and route approval, and (2) a fee equal to the anticipated amount required to compensate the City for any municipal utility and public property (other than streets) repairs or alterations occasioned by such movement. All permit fees shall be paid in advance of issuance.
- D. Building Permit. Before any building is moved from one location to another within the City, or from a point of origin without the City to a destination within the City, regardless of the route of movement, it shall be inspected and a building permit shall have been issued.
- E. Unlawful Acts.
1. It is unlawful for any person to move a building on any street without a moving permit from the City.
  2. It is unlawful for any person to move a building on a highway without a highway moving permit from the City.
  3. It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the City, and regardless of the route of movement, without having paid in full all real and personal property taxes, special assessments and municipal utility charges due on the premises of origin and filing written proof of such payment with the City.

Effective Date: 06-01-1990

**4-1-5: COMPLETION OF EXTERIOR WORK.** The roof and all exterior surfaces of residential buildings, and buildings and structures accessory thereto, shall be completed with exterior finish materials within twelve (12) months after the date of the building permit issued for the new construction, alteration, remodeling or relocation of such building or structure. This period may be extended by Council action for an additional six (6) months in the case of a demonstrated hardship due to sources beyond the control of the permit holder. (Ord 150, SS, 2-6-2011)

**4-1-6: TEMPORARY HABITATION:**

- A. **Purpose:** The purpose of this Section is to provide for the erection of and habitation in temporary structures (not including model homes/temporary real estate offices or temporary classroom structures for use by a public or private institution) needed for emergency purposes or for temporary use during the construction of a permanent structure.
- B. **Application.** The property owner and present or potential occupants of a single family property may apply for a permit allowing for habitation in a temporary structure during the construction or repair of a single family dwelling unit when a valid building permit has been issued for such work on the site by supplying the following information:
1. Properly filled out application form accompanied by the fee established in the fee schedule.
  2. Site and Building Plan that includes the following information:
    - a. Proposed Location of the temporary structure in relation to all existing buildings on the site, property lines, and right-of-ways.
    - b. Utility plan depicting the provision of water and sewer services to the proposed temporary dwelling unit.
    - c. Structural floor plan depicting the size and location of rooms and facilities within the temporary dwelling unit.
- C. **Special Requirements:**
1. Site Plan Required: No permit shall be issued for a temporary structure unless a site plan pursuant to Section 10-9 has also been approved if applicable, or unless a building permit has been issued for a new structure, addition or remodeling of an existing structure on the property - that includes a site plan depicting the location of the temporary dwelling unit.

2. Termination of Permit: The Council may grant temporary occupancy for a period not to exceed 90 days. Upon finding by the Building Official of substantial progress, the Building Official may administratively extend this period of time an additional 90 days. Any extensions beyond this time period may only be approved by Council action if sufficient conditions warrant such an extension.
  3. Setbacks: Temporary structures may not be placed in a required building setback area.
  4. State Building Code: All applicable requirements of the State Building Code shall be met.
  5. Water and Sewer: Provisions for water and sewer servicing the temporary structures shall be subject to the review and approval of the Building Official and City Council.
  6. Security Measures: Security measures such as lighting shall be implemented subject to the review and approval of the Zoning Administrator.
  7. Off-Street Parking. Off-street parking shall be provided subject to the provisions of Section 10-19.
  8. Signage. Any signage shall conform to the provisions of Section 10-23.
  9. Escrow. The property owner shall submit a financial guarantee to ensure the structure will be removed upon termination of the permit. The amount of the guarantee shall be established by the City's fee schedule and as may be modified by the City Council.
  10. Access. The temporary structure shall only be accessed through permitted access driveways.
- D. Review Procedure. Upon acceptance and review of the application by the Building Official and/or the Zoning Administrator, the application shall be placed on the agenda of the next available Council meeting for review. The Council shall review the application and review the request based on the following:
1. The applicant has the sufficient space available on site for locating the temporary structure.
  2. The applicant is providing adequate financial guarantees to ensure the removal of the temporary structure.

3. The temporary structure has adequate utilities and sanitary facilities.
4. The temporary structure is suitable for the purpose intended.
5. The structure will not negatively impact public health and safety on neighboring properties.

(Ord 178, SS, 11-19-12, Effective Date: 12-23-13)

## SECTION 2

### RESIDENTIAL HOUSING STANDARDS

(Ord. 188, Effective 1/18/14)

#### SECTION:

- 4-2-1: Purpose
- 4-2-2: Residential Health and Safety Hazards
- 4-2-3: Unfit for Human Habitation
- 4-2-4: Administration and Enforcement

**4-2-1: PURPOSE.** The purpose of this Section is to maintain the City's sanitation, public health and attractiveness, protect the safety of the people, and to promote the general welfare. These general objectives include, among others the following:

- A. To protect the character and stability of the residential areas.
- B. To correct and prevent conditions that adversely affect or are likely to adversely affect the safety, general welfare, and health of persons owning or renting residential facilities.
- C. To provide for sound maintenance of cooking, heating, sanitary, electrical, light and ventilation systems necessary for health and safety.
- D. To provide basic standards for the maintenance of existing residential structures and to prevent deterioration and blight.
- E. To preserve the value of land and structures throughout the City.

**4-2-2: RESIDENTIAL HEALTH AND SAFETY HAZARDS.** The following are considered immediate hazards to health and safety for human occupancy:

- A. Heating systems that are unsafe due to:
  - 1. Burned out or rusted out heat exchanges (fire box).
  - 2. Burned out, or plugged flues.
  - 3. Not being vented.
  - 4. Being connected with unsafe gas supplies.

- B. Water heaters that are unsafe due to:
  - 1. Burned out or rusted out heat exchanges (fire box).
  - 2. Burned out, rusted out, or plugged flues.
  - 3. Not being vented.
  - 4. Being connected with unsafe gas supplies.
  - 5. Lack of temperature and pressure relief valves.
- C. Electrical systems that are unsafe due to:
  - 1. Dangerous overloading.
  - 2. Damaged or deteriorated equipment.
  - 3. Improperly taped or spliced wiring.
  - 4. Exposed or un-insulated wires.
  - 5. Distribution systems of extension cords or other temporary methods.
  - 6. Ungrounded system, ungrounded appliances in contact with earth.
- D. Plumbing systems that are inoperable or unsanitary due to:
  - 1. Leaking waste systems, fixtures and traps.
  - 2. Lack of a water closet.
  - 3. Lack of washing or bathing facilities.
  - 4. Cross connection of pure water supply with fixtures of sewage lines.
  - 5. System failure.
- E. Structural systems, walls, chimneys, ceilings, roofs, foundations, and floor systems, that will not safely carry imposed loads.
- F. Rubbish, garbage, human waste, decaying vermin or dead animals, animal waste, other materials rendering it unsanitary for human occupancy.
- G. Infestation of rodents, insects, vermin and other pests.

H. Water supply that is inoperable or unsanitary due to:

1. Leaking supply pipes, fixtures and traps.
2. Cross connection with sewage lines.
3. System failure.

**4-2-3: UNFIT FOR HUMAN HABITATION.**

- A. Declaration. Any dwelling unit which is in violation of Section 4-2-2, damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent infested, or which lacks provision for illumination, ventilation, or sanitary facilities to the extent that the defects create a hazard to the health, safety, or welfare of the occupants or to the public may be declared unfit for human habitation. Whenever any dwelling unit has been declared unfit for human habitation the City Inspector shall order same vacated within a reasonable time and shall post a placard on same indicating that it is unfit for human habitation.
- B. Vacated Building. It is unlawful for a vacant building unit which has been declared unfit for human habitation to be occupied until the defective conditions have been corrected and certificate of occupancy has been issued by the City Inspector. It is unlawful for any person to deface or remove the placard from any such dwelling unit.
- C. Secure Unfit and Vacated Dwellings. The owner of any dwelling unit which has been declared unfit for human habitation or which is otherwise vacant for a period of sixty (60) days or more, shall make same safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance within the meaning of this Section.
- D. Hazardous Building Declaration. In the event that a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a reasonable time, the dwelling may be declared a hazardous building and treated consistent with the provisions of Section 463.15 of the Minnesota Statutes.

**4-2-4: ADMINISTRATION AND ENFORCEMENT.**

- A. Compliance. Whenever the Building Official determines or has reasonable grounds to believe that there has been a violation of any provision of this Section, he shall give notice of such alleged violation to the person responsible therefore. Such notice shall:
1. Be in writing.

2. Include a description of the real estate sufficient for identification.
  3. Describe in sufficient detail each violation.
  4. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Section.
  5. Allow a reasonable time, not to exceed sixty (60) days, for the performance of any act it requires.
  6. Be served upon the owner, agent, operator or occupant; such notice shall be deemed to be properly served if a copy thereof is:
    - a. Served upon said owner, agent, operator or occupant;
    - b. Sent by mail to the last known address; or,
    - c. Upon failure to effect the compliance order through (a) or (b), above, said order will be posted at a conspicuous place in or about the affected dwelling unit.
- B. Unlawful Act. It is unlawful for any person to fail to meet the requirements of the compliance order.
- C. Execution of Compliance Orders. Upon failure to comply with a compliance order within the time set and no appeal having been taken the Council may, by resolution, cause the cited deficiency to be remedied as set forth in the compliance order. The cost of such remedy shall be placed against the subject property and may be levied and collected as a special assessment in the manner provided by Minnesota Statutes, Chapter 429.
- D. Appeal. When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this Section, such person may appeal the compliance order as set forth in Chapter 10-3-6 of the Zoning Ordinance. The filing of an appeal shall stay all proceedings, unless such a stay would cause imminent peril to life, health, safety or property.
- E. Emergency Cases. When a violation of this Section constitutes an imminent peril to life, health, safety or property, the City may require immediate compliance and if necessary take appropriate action to correct the violation.



## SECTION 3

### UNIFORM NUMBERING SYSTEM

#### SECTION:

- 4-3-1: Purpose
- 4-3-2: Assignment of Numbers
- 4-3-3: Display of Numbers
- 4-3-4: Administration
- 4-3-5: Unlawful Act

**4-3-1: PURPOSE.** A uniform system of numbering properties and principal buildings is hereby adopted for use in the City, as indicated on the certain map or maps identified as the City of St. Francis Number Index on file in the office of the City Clerk/Treasurer. Said Index and all explanatory matter thereon is hereby adopted and made a part of this Section.

**4-3-2: ASSIGNMENT OF NUMBERS.** All properties or parcels of land shall hereafter be identified by reference to the Uniform Numbering System adopted herein. All existing numbers of properties and buildings not now in conformity with the provisions of this Section shall be changed to conform to the system herein adopted within sixty (60) days from the effective date of this Section. Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such building shall bear a separate number.

**4-3-3: DISPLAY OF NUMBERS.** It is the duty of the owner, lessor or occupant of every house, industrial, commercial or other building, to have a proper house or building number either by affixing such number in metal, glass, plastic, or other curable material, the number shall be not less than three (3) inches in height, in a contrasting color to the base, said numbers shall either be lighted or made of some reflective material and so placed to be easily seen from the street or placed on the mailbox if the mailbox be on the street of the property. The number of plates shall be so placed within sixty (60) days from the effective date of this Section. All auxiliary buildings within a unit having an assigned number, such as garages, barns and buildings of the like nature are not affected by this Section.

**4-3-4: ADMINISTRATION.** The Building Inspector shall be responsible for maintaining the numbering system and shall keep a record of all numbers assigned under this Section. The Building Inspector shall assign to any property owner upon request and without charge a number of each principal building or separate front

entrance to such building. The Building Inspector shall issue only the number assigned to such building under the provisions of this Section; provided, however, that the Building Inspector 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 number for property identification.

**4-3-5: UNLAWFUL ACT.** It is unlawful for any person to fail to comply with the provisions of this Section, or to affix to or display upon any house or building any such number other than those assigned to it.

## SECTION 4

### MANUFACTURED HOME PARKS

#### SECTION:

- 4-4-1: Definitions
- 4-4-2: Location Outside Manufactured Home Parks
- 4-4-3: Manufactured Home Park Permits
- 4-4-4: Building Permit for Manufactured Home Park
- 4-4-5: Site Requirements
- 4-4-6: Manufactured Home Building Code: Anchorage; Manufactured Home Standards Code
- 4-4-7: Variance

**4-4-1: DEFINITIONS.** The following terms, as used in this Section, shall have the meanings stated:

- A. “Manufactured Home” means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width, or forty body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected by the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained herein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certificate required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under Minnesota Statutes 327 including the Manufactured Home Building Code adopted herein.
- B. “Manufactured Home Park” means any park, trailer park, trailer court, trailer camp, court, or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any manufactured home coach or manufactured home coaches and upon which any manufacture home coach or manufactured home coaches are parked and shall include all building used or intended for use as part of the equipment thereof whether a charge is made for the use of the manufactured home park and its facilities or not.
- C. “Unit” means a section of ground in a manufactured home park of not less than 6,000 square feet of unoccupied space in an area designated as the location for one manufactured home, off-street parking space for two automobiles and other uses considered pertinent to the establishment and use of a manufactured home residence as permitted by this Section.

Effective Date: 07-24-1988

#### **4-4-2: LOCATION OUTSIDE MANUFACTURED HOME PARKS.**

- A. It is unlawful for any person to park any manufactured home or recreational camping vehicle, as defined herein or in any other provisions of the City Code, on any street, alley or highway, or other public place, or on any tract of land owned by any person, occupied or unoccupied within the City, except as provided in this Section or other City Code provisions. No manufactured home which does not meet the standards set out herein shall be permitted within the City unless the same was located herein on the effective date of this Subparagraph. (Ord 23-A, 9-4-1982)
- B. Emergency stopping or parking is permitted on any street, alley, or highway for not longer than three (3) hours subject to any other and further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or City Code provisions for that street, alley or highway.
- C. It is unlawful for any person to park or occupy any manufactured home or recreational camping vehicle on the premises of any occupied dwelling, or any lot which is not a part of any occupied dwelling, either of which is situated outside of an approved manufactured home park; except, the parking of only one manufactured home unoccupied is permitted, providing no living quarters shall be maintained or any businesses practiced in said manufactured home while such manufactured home is so parked or stored. Said manufactured home shall maintain a setback distance of at least ten (10) feet from other buildings, alleys and property lines, thirty-five (35) feet from City streets, and seventy-five (75) from all other highways.

#### **4-4-3: MANUFACTURED HOME PARK PERMITS.**

- A. Application for a conditional use permit to establish, construct, and maintain a manufactured home park under the provisions of this Section shall be made to the City Clerk/Treasurer.
- B. The application for a permit shall be accompanied by twenty-five (25) copies of the manufactured home park plan showing the following, either existing or proposed:
  - 1. The extent and area proposed for manufactured home park purposes.
  - 2. Roads, driveways, and garages.
  - 3. Location of sites or units for manufactured homes.

4. Location and number of sanitary connection and utility services.
  5. Proposed disposition of surface drainage.
  6. Proposed street surfacing and lighting.
  7. Off-street parking.
  8. Patios.
  9. Location of community building.
  10. Location of recreation facilities.
  11. Location of setback lines.
  12. Location of screening, planting, green areas, etc.
  13. Any other information requested by the Council.
  14. Name and address of developer.
  15. Description of method of disposing of garbage and refuse.
  16. Detailed description of maintenance procedure and grounds supervision.
  17. Description of construction plans (i.e. time involved, cost estimates, stage development).
  18. A certified survey of the parcel involved showing corner stakes in place.
- C. Each application for a conditional use permit shall be accompanied by a certificate listing ownership on all of the property within three hundred fifty (350) feet of any boundary line of the proposed manufactured home park site.
- D. Each applicant shall be required to pay a fee determined by the Council. Such fee shall include the various expenses incurred.
- E. No conditional use permit for any manufactured home park shall be issued by the Council until after a public hearing has been held on the matter by the Planning and Zoning Commission. This hearing shall be advertised in the official newspaper of the City at least once, not less than ten (10) days and not more than twenty (20) days prior to the public hearing, which notice shall be in addition to the regular posted notices as required for conditional use permits. A notice of said hearing shall be mailed to each of the property owners within three hundred fifty (350) feet.

**4-4-4: BUILDING PERMIT FOR MANUFACTURED HOME PARK.**

- A. The applicant for a building permit for the construction of a manufactured home park or any part thereof shall comply with all of the provisions of the State Building Code as such provisions may apply.
- B. Each application shall be accompanied by twenty-five (25) copies of detailed plans of the proposed construction and improvement of the site.
- C. Every application for a building permit to construct a manufactured home park shall be accompanied by plans approved by the State of Minnesota Department of Health, and Minnesota Pollution Control Agency showing that the applicant is complying with all recommendations, suggestions and laws under the jurisdiction of those departments.
- D. The building permit shall be issued by the Building Inspector after it has been approved by a majority vote of the Council.
- E. The Building Official shall inspect the installation of all manufactured homes. The inspection fee for each manufactured home shall be determined annually by Council resolution.

**4-4-5: SITE REQUIREMENTS.**

- A. Every manufactured home park shall be located on a well-drained area and the premises shall be properly guarded so as to prevent the accumulation of storm or other waters.
- B. Each unit shall have a gross area of not less than 6,000 square feet excluding roadway.
- C. Each unit shall have a minimum width of 60 feet measured at right angles to its side lines for rectangular units. For non-rectangular units, the minimum width on a street shall be forty-five (45) feet with a mean width of 60 feet.
- D. Front setback of any manufactured home shall be no less than ten (10) feet from the curb.
- E. Where an alley is provided adjacent to the back line of the unit, there shall be a minimum setback of five (5) feet from said back line. Where there is no alley, the setback from the back line of the unit shall be not less than ten (10) feet.
- F. There shall not be less than twenty (20) feet of space between manufactured homes in all directions.

- G. A patio shall be constructed on the ground beside each manufactured home; this patio shall be not less than two hundred (200) square feet in area constructed of concrete of four inches (4") minimum thickness or approved equal.
- H. Except for the area used for the manufactured home, patio, sidewalk, garage and off-street parking space, the entire manufactured home park shall be sodded and maintained with grass, shrubs and trees, which shall be kept in a green and healthy condition.
- I. Each unit shall abut on and have access to a street. This street shall be constructed of a seven-ton design in accordance with the Minnesota Department of Transportation Design Standards.
- J. A curb and gutter of concrete shall be constructed on each side of the street and the face of this curb shall be at least fifteen (15) feet from the center line of said street. The curb design shall be of a type approved by the City.
- K. There shall be an unused area not less than seventy-five (75) feet in depth along each public street or way and this area shall be sodded and landscaped.
- L. Where a manufactured home park site abuts upon other property there shall be a setback of at least thirty (30) feet and this shall be landscaped.
- M. The parking of more than one (1) manufactured home on any single unit shall not be permitted.
- N. No manufactured home shall be accepted in poor condition, nor may it be inhabited by a greater number of occupants than that for which it was designed. No one shall build any livable additions to a manufactured home.
- O. Water facilities, sewage disposal and street lighting shall be installed and maintained by the owner of the manufactured park site and shall be constructed in accordance with the laws of the State of Minnesota, the regulations of the State Health Department and the City Code provisions, and requirements of the City and the Minnesota Pollution Control Agency.
- P. Each unit shall have a 12 foot x 22 foot minimum garage with a ten (10) foot minimum surfaced driveway. Minimum garage setback shall be thirty (30) feet from the curb.
- Q. All utility lines within the manufactured home park shall be buried, with one hundred (100) amps at the service box.

- R. A minimum of ten percent (10%) of the total manufactured home park area shall be devoted to park and recreation and shall be furnished with playground type equipment.
- S. All boats, boat trailers, hauling trailers, and all other equipment not stored within the manufactured home or the utility enclosure that may have been provided, shall be stored in a separate area provided by the park and not upon the plots occupies by the manufactured homes nor upon the streets within the manufactured home park.
- T. An adequate office, community building, and storm shelter shall be provided.
- U. A two and one-half (2.5) pound dry chemical fire extinguisher shall be located near the door of every manufactured home. Its classification shall be ABC. An adequate number of all weather fire hydrants shall be spaced throughout the park, which number and size shall be as approved by the State Fire Marshal.
- V. Garbage collection shall be provided at least once weekly.
- W. To promote the public health, safety and general welfare of persons within manufactured housing parks, all water systems within manufactured housing parks shall be flushed when the City system is flushed. The owner of each manufactured home park, or its representative, shall contact the Public Utilities Department to schedule the times said park will be flushing the water systems.

Effective Date: 06-01-1990

**4-4-6: MANUFACTURED HOME BUILDING CODE: ANCHORAGE;  
MANUFACTURED HOME STANDARDS CODE.**

- A. All manufactured homes occupied or stored in a manufacture home park shall comply with the requirements of the Manufactured Home Building Code, Minnesota Statutes, Sections 327.31 through 327.35, as amended.
- B. Any manufactured home placed in a manufactured home park after September 1, 1974, shall have a support system and ground anchoring system which comply with the rules and regulations promulgated by the State Commissioner of Administration.
- C. All manufactured homes placed in a manufactured home park, which have been manufactured after July 1, 1972, shall bear a seal from the Commissioner of Administration, pursuant to Minnesota Statutes 1978, Section 327.32. (Ord 23-B, 5-26-1984)



#### **4-4-7: VARIANCE.**

- A. Council Authority. The Council shall have the power to authorize variances from certain requirements of this Section. Variances shall pertain only to the physical characteristics of the land or structures to be built or placed thereon, such as area, height, extent of lot coverage, setback requirements, density, parking requirements, and other provisions of the site requirements where found necessary by the Council. A written copy of such variance shall be included in the terms of the conditional use permit under which the manufactured home park is governed according to the zoning provisions of Chapter 10 of the City Code.
- B. Application. An application for a variance to this Section shall be filed either together with the application for a conditional use permit as required under this Section or under City Code Chapter 10, or as a separate application if a need for a variance is determined after the application is made for a conditional use permit. All applications shall be filed with the Zoning Administrator and shall be accompanied by:
  - 1. An application fee in an amount equal to that set by resolution of the Council.
  - 2. Twenty-five (25) copies of the site plan and supporting data which include all requirements of the application for a conditional use permit. If the required number of copies of the site plan have been filed for the conditional use permit application, they may be submitted with the application for a variance to fulfill this requirement.
  - 3. The application shall include a statement which sets forth the specific provision of this Section for which a variance is being requested. Such statement shall specify the reasons the applicant believes that a variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the City, including what property right is to be preserved and what specific conditions exist on the particular property which make a variance necessary.
- C. Review. The Administrator shall forward copies of the application for review to the Planning and Zoning Commission and to the City Engineer.
  - 1. The Commission shall conduct a public hearing on the variance application and shall give at least ten (10) days mailed notice to property owners within three hundred fifty (350) feet of the property whereon the variance is requested. Published notice shall precede the hearing. Any person may appear and testify at the hearing either in person or by duly authorized agent. The Commission shall review the testimony and consultant recommendations and forward its written findings to the Council

within a reasonable time after the public hearing. If the application for a variance is submitted together with the application for conditional use permit, both matters may be noticed and considered at the same public hearing.

2. The Council shall review the recommendation of the Planning and Zoning Commission, all reports and recommendations of consultants, and shall authorize a variance to the requirements of this Section only if the Council finds evidence that all the following facts and conditions exist:
  - a. That there are exceptional, unique, or extraordinary circumstances or conditions as to the property that do not apply generally to other properties in the City.
  - b. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the City. The possibility of increased financial return shall not be in itself deemed sufficient to warrant a variance.
  - c. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Section or the public interest.
  - d. That the condition or situation of the specific piece of property or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.
  - e. That the variance observes the spirit and intent of this Section, produces substantial justice, and is not contrary to public interest.
3. In granting any variance, the Council may impose conditions to insure compliance and to protect adjacent properties.
4. Whether the Council grants or denies the variance request, it shall issue a written order deciding the matter and shall serve a copy of the order upon the applicant by regular first class mail. If the application was submitted together with an application for a conditional use permit, the variance shall also be included in the terms and conditions of the conditional use permit.
5. No variance to this Section shall be granted unless the applicant has been approved for a conditional use permit for the operation of a manufactured home park.

Effective Date: 06-01-1990

## SECTION 5

### MINNESOTA UNIFORM FIRE CODE

#### SECTION:

- 4-5-1: Adoption
- 4-5-2: Storage of Flammable and Explosive Materials
- 4-5-3: Fire Lanes
- 4-5-4: Approved Key Boxes

**4-5-1: ADOPTION OF THE MINNESOTA STATE FIRE CODE.** 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 and property in the occupancy of buildings in the City of St. Francis, the Minnesota State Fire Code, as adopted pursuant to Minnesota Statutes, Section 299F.011, and as modified by Minnesota Rules, Chapter 7511 is adopted and incorporated by reference as the Fire Code for the City. Every provision contained in the Fire Code including appendices, except as modified or amended by this article, is adopted and made a part of this article as if fully set forth. One copy of said code shall be marked "City of St. Francis – Official Copy" and kept on file in the Office of the City Clerk/Treasurer and open to inspection and use to the public. (Ord 151, SS, 2-6-2011)

**4-5-2: STORAGE OF FLAMMABLE AND EXPLOSIVE MATERIALS.** No bulk plants for storage of flammable or combustible liquids, or bulk storage of liquefied petroleum gas, not established on the effective date of this Section, shall be permitted. No storage of explosives or blasting agents shall be permitted.

**4-5-3: FIRE LANES.** The Fire Chief or his/her designee shall recommend to the City Council the placement of fire lanes on public or private property. Fire lane signs shall be required to be posted and maintained upon resolution of the Council. Written notice shall be given to the owner of private property upon which a fire lane is proposed to be established ten (10) days prior to the Council meeting addressing the issue. (The property owner shall, upon order of the Council, be required to post and maintain fire lane signs on their property.) (Ord 52, SS, 4-20-1998)

**4-5-4: APPROVED KEY BOXES.** The St. Francis Fire Department requires that an approved key box be installed on the exterior of all buildings that have a fire alarm system and/or fire sprinkler system, where access to or within a building is difficult because of secured openings, where immediate access is necessary for life safety purposes and fire fighting purposes. The key box shall be of a type approved by the

Fire Marshall and contain keys necessary to gain access. The key box shall be installed in an approved location. The key box locking mechanism shall not exceed six (6) feet above grade. (Ord 65, SS, 11-20-2000)

## SECTION 6

### RENTAL HOUSING LICENSING

(Ord. 188, Effective 1/18/14)

#### SECTION:

- 4-6-1: Purpose
- 4-6-2: Application
- 4-6-3: Definitions
- 4-6-4: License
- 4-6-5: Inspection Criteria
- 4-6-6: Responsibilities of Owners and Occupants
- 4-6-7: Maximum Density
- 4-6-8: General Requirements
- 4-6-9: Minimum Standards for Basic Equipment and Facilities
- 4-6-10: Minimum Standards for Light and Ventilation
- 4-6-11: Dwellings Unfit for Human Habitation
- 4-6-12: Ordinance Implementation
- 4-6-13: Penalties and Violations

**4-6-1: PURPOSE.** It is the purpose of this Ordinance to assure that rental housing in the City of St. Francis is decent, safe and sanitary and is so operated and maintained as not to become a nuisance to the neighborhood or to become an influence that fosters blight and deterioration or creates a disincentive to reinvestment in the community. The operation of rental residential properties is a business enterprise that entails certain responsibilities. Operators are responsible to take such reasonable steps as are necessary to assure that the citizens of the City who occupy such units may pursue the quiet enjoyment of the normal activities of life in surroundings that are: safe, secure and sanitary; free from crimes and criminal activity, noise, nuisances or annoyances; free from reasonable fears about safety of persons and security of property; and suitable for raising children.

With respect to rental disputes and except as otherwise specifically provided by the terms of this Ordinance, it is not the intention of the City to intrude upon the fair and acceptable relationship between tenant and landlord. The City does not intend to intervene as an advocate of either party, or to act as an arbiter, or to be receptive of complaints from a tenant or landlord which are not specifically and clearly relevant to the provisions of this Ordinance. In the absence of such relevancy, with regard to rental disputes, it is intended that the contracting parties exercise such legal rights as are available to them without the intervention of the City.

**4-6-2: APPLICATION.** Every non-owner occupied rental dwelling unit and its premises used whole or in part as a home or residence, for a family or person, shall conform to the requirements of this Ordinance irrespective of when such building was

constructed, altered or repaired. This Ordinance establishes minimum standards for erected rental dwelling units, accessory structures and related premises. All dwelling units must also comply with all other applicable standards found in the City Code.

#### **4-6-3: DEFINITIONS.**

1. **Approved.** When used in reference to the design and capabilities of physical systems of a dwelling, shall mean having passed the inspection of the Compliance Officer. The basis for passage of such inspection shall be an analysis of the effective state codes and an analysis of the degree to which the systems meet the standards established by such codes. It shall be the objective of the Compliance Officer, unless otherwise specified, to establish minimum qualifications for approval of such system, which qualifications can maintain substantial compliance with the effective state codes and can be achieved in a reasonably economical and practical manner.
2. **Building.** Any structure built for support, shelter or enclosure of persons, animals, chattel or movable property of any kind, and includes any structure.
3. **Compliance Officer.** The City Building Official or other designee of the City Administrator authorized to administer and enforce this article.
4. **Dwelling.** A building or portion thereof, designated exclusively for the residential occupancy, including one-family, two-family, multiple family dwellings, and manufactured houses, but not including hotels, motels, nursing homes, residential care facilities, or assisted living facilities.
5. **Dwelling, Multiple Family.** A building designed with two (2) or more dwelling units exclusively for the occupancy of two (2) or more families living independently of each other, but sharing hallways, main entrances, and exits.
6. **Dwelling Unit.** A residential building or portion thereof intended for occupancy by one (1) or more persons with facilities for living, sleeping, cooking and eating but not including but not including hotels, motels, nursing homes, residential care facilities, or assisted living facilities.
7. **Family.** An individual or two (2) or more persons related by blood, marriage, adoption, domestic partnership, or foster care or a group of not more than three (3) persons not so related maintaining a common household and using common cooking/kitchen and bathroom facilities.
8. **Garbage.** Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

9.     Habitable Room. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements (those without required ventilation, required electric outlets and required exit facilities), pantries, utility rooms of less than fifty (50) square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces and workshops, hobby and recreation areas in parts of the structure below ground level or in attics.
10.    Heated Water. Water heated to a temperature of not less than one hundred twenty (120) degrees Fahrenheit, or such lesser temperature required by government authority, measured at the faucet outlet.
11.    Kitchen. A space which contains a sink with counter working space, adequate space for installing cooking and refrigeration equipment and adequate space for the storage of cooking utensils.
12.    Lease. An agreement to rent. For use as a verb, see Rent.
13.    Occupant. Any person sleeping, cooking and eating in a dwelling unit.
14.    Operator. The owner or his agent who has charge, care, control, or management of a building, or part thereof, in which dwelling units are let.
15.    Owner. Any person who alone, jointly, or severally with others, shall be in actual possession of, or have charge, care or control of, any dwelling or dwelling unit within the city as title holder, as employee or agent of the title holder, or as trustee or guardian of the estate or person of the title holder. Any such person representing the actual title holder shall be bound to comply with the provisions of this article to the same extent as the title holder.
16.    Permissible Occupancy. The maximum number of persons permitted to reside in a dwelling unit.
17.    Plumbing. All of the following supplied facilities and equipment in a dwelling: gas pipes, gas burning equipment, water pipes, steam pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar fixtures and the installation thereof, together with all connections to water, sewer and gas lines.
18.    Premises. A platted lot or part thereof or unplatted parcel of land occupied by any dwelling or non-dwelling structure, including any such building, accessory structure or other structure thereon.
19.    Refuse. All organic and non-organic waste, including garbage and rubbish.

20. Rent. Consideration paid for the use of premises, including, but not necessarily limited to, money, services and property. As a verb, the term "rent" means to get or give the use of premises in return for such consideration or any combination thereof. The term "rent" does not include arrangements whereby a relative, as defined in Minnesota Statutes 273.124, subd. 1 (c), occupies a dwelling for no consideration or for consideration that includes no more than maintenance of the dwelling or premises, and which arrangement is detailed and sworn to in affidavits filed by each adult occupant of the dwelling and each person who is an owner of the dwelling.
21. Rental Dwelling. A non-owner occupied building or portion thereof let for rent or lease, designed or used predominantly for residential occupancy of a continued nature, including single-family dwellings, attached or detached, and multiple family dwellings, but not including hotels, motels, nursing homes, residential care facilities, or assisted living facilities.
22. Rental Dwelling Unit. A non-owner occupied single residential accommodation let for rent or lease which is arranged, designed, used or, if vacant, intended for use exclusively as a domicile for one family. Where a private garage is structurally attached, it shall be considered as a part of the building in which the dwelling is located.
23. Repair. To restore to a sound and acceptable state of operation, serviceability or appearance.
24. Rodent Harborage. Any place where rodents can live, nest or seek shelter.
25. Rubbish. Solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, grass and shrubbery clippings, wood, glass, brick, plaster, bedding, crockery and similar materials.
26. Supplied. Paid for, furnished by, provided by or under the control of the owner, operator or agent of a dwelling. Whenever the terms "dwelling," "dwelling unit," "premises," and "structure" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."
27. Toilet. A toilet, with a bowl and trap made in one piece, which is connected to the city water and sewer system or other approved water supply and sewer supply.

#### **4-6-4: LICENSE.**

- A. License Required. No person, firm or corporation shall operate a rental dwelling unit without first having obtained a license to do so from the City as provided for



in this Ordinance. Each license shall be good for two (2) years and expire on January 31<sup>st</sup> on the second year after issuance, except as otherwise described in Section 4-6-12 regarding the process for the first renewal. License renewals for the following years shall be filed on or before January 15<sup>th</sup> prior to the license expiration date.

B. Application. Applications for rental licenses shall be made in writing to the City by the owner of the rental dwelling unit(s) or his/her designated agent. The applicant shall supply:

1. The name, address and telephone number of the dwelling owner, the owning partners if a partnership and/or that of the corporate officers if a corporation.
2. The name, address and telephone number of the designated resident agent, if any.
3. The name, address and telephone number of the management representative.
4. The name, address and telephone number of the vendee, if the dwelling is being sold through a contract for deed.
5. The legal address of the dwelling.
6. The type of dwelling.
7. The type and number of dwelling units within the dwelling.
8. Number of occupants.
9. A description of the procedure through which tenant inquiries and complaints are to be processed.
10. An acknowledgement that the owner or designated agent has received a copy of this Ordinance.
11. Certification of Taxes and Utilities Paid: Prior to approving an application for a rental housing license, the property owner shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the rental housing license application relates.

C. Fees.

1. License fees for renewal of licenses under this Ordinance shall be due on January 15<sup>th</sup> immediately prior to the license expiration date. In cases of new unlicensed dwellings, license fees shall be due upon issuance of the certificate of occupancy. In cases of licensing for periods of less than one (1) year, license fees shall be prorated monthly.
  2. The amount of license fees shall be as set forth in the City's official fee schedule. The licensee shall not be entitled to a refund of any license fee upon revocation or suspension of the license. However, the licensee shall be entitled to a refund of any license fee, prorated monthly, upon proof of transfer of legal control or ownership.
- D. Inspection Required. No license shall be issued or renewed under this Ordinance unless the rental dwelling and its premises conform to the ordinances of the City and the laws of the State. The City may require an inspection of such dwelling and premises to make that determination. Failure to schedule or allow such inspection is a violation of this Ordinance.
- E. Posting of License. Every licensee of a rental dwelling shall cause to be conspicuously posted in the main entryway or other conspicuous location therein the current license of the respective rental dwelling for all multiple family buildings.

**4-6-5: INSPECTION CRITERIA.** The City may inspect any rental unit if it falls within one or more of the following criteria:

- A. Such a unit has been abandoned by the owner or the owner of such unit cannot be found.
- B. The rental dwelling unit license has been suspended, revoked or denied.
- C. Water, gas, or electric service to such unit has been discontinued as a result of nonpayment.
- D. The unit is on a parcel of land which is on the list of delinquent taxes filed by the County Auditor with the court administrator of the district court pursuant to Minnesota Statutes Section 279.05.
- E. The City has probable cause to believe that there exist within such unit one or more violations of the requirements of this ordinance.
- F. The unit of property within which the unit is located has, within the preceding six (6) months, renewed a license after suspension or revocation.

- G. The unit is the subject of a pending notice of the City's intent to suspend or revoke the rental license.
1. The Compliance Officer is hereby authorized, in conformity with this Ordinance, to inspect all rental dwelling units to enforce this section and all applicable safety codes.
  2. The Compliance Officer is authorized to inspect all rental dwelling units in dwellings, whether having a rental license hereunder or not. The inspection may include the building or structure containing the rental dwelling unit, the land upon which it is located and accessory uses or structures related to the rental dwelling unit. All inspections authorized by this section shall be limited to those which are done for the purpose of seeking compliance with the applicable safety codes, and shall take place only at reasonable hours or as may otherwise be agreed upon by the owner and the Compliance Officer.
  3. The City shall give notice to the owner of any violations of the applicable safety codes which are discovered during any inspection.

**4-6-6: RESPONSIBILITIES OF OWNERS OR OCCUPANTS.** No owner or other person shall occupy or let another person occupy any rental dwelling unit, unless the premises are clean, sanitary, fit for human occupancy and complies with all applicable legal requirements of the State and the City, including the following requirements:

- A. License. The owner of a rental dwelling unit shall obtain and license and shall pass the required inspection prior to any occupancy of the rental dwelling unit.
- B. Maintenance.
1. Shared or Public Areas. Every owner of a rental dwelling unit shall maintain in a clean, sanitary and safe condition, the shared or public areas of the building and premises thereof.
  2. Occupied Areas. All occupants of a rental dwelling unit shall maintain in a clean, sanitary and safe condition that part or those parts of the building and premises thereof that she/he occupies and controls.
- C. Storage and Disposal of Garbage and Rubbish.
1. All occupants of a rental dwelling unit shall store and dispose of all their rubbish in a clean, sanitary and safe manner.

2. All occupants of a rental dwelling unit shall store and dispose of all their garbage and any other organic waste which might provide food for insects and/or rodents in a clean, sanitary and safe manner.
3. Every owner of a rental dwelling unit shall supply facilities of adequate size for the sanitary and safe storage and disposal of rubbish and garbage.
4. Every owner of a rental dwelling unit shall supply facilities of adequate size for the sanitary and safe storage and collection of recyclables.

D. Pest Control.

1. Pest Extermination. Every owner of a rental dwelling unit shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit containing more than one dwelling unit or an occupant of a nonresidential building containing more than one unit shall be responsible for the extermination whenever his unit is the only one infested. Notwithstanding, however, whenever infestations caused by the failure of the owner to maintain a building in a reasonable rodent-proof or reasonable vermin-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the units in any building, extermination thereof shall be the responsibility of the owner. Whenever extermination is the responsibility of the owner, the extermination must be performed by a licensed pest control contractor.
2. Rodents.
  - a. No occupant of a rental dwelling unit shall accumulate boxes, lumber, scrap metal, or any similar materials in such a manner that may provide a rodent harborage in or about any dwelling unit or building. Stored materials shall be stacked neatly.
  - b. No owner of a rental dwelling unit shall accumulate or permit the accumulation of boxes, lumber, scrap metal, or any other similar materials in such a manner that may provide a rodent harborage in or about shared or public areas of a building or its premises. Materials stored by the owner or permitted to be stored by the owner shall be stacked neatly.
  - c. No owner or occupant of a rental dwelling unit shall store, place or allow to accumulate, any materials that may serve as food for rodents in a site accessible to rodents.

- E. Sanitary Maintenance of Fixtures and Facilities. Every occupant of a rental dwelling unit shall keep all supplied fixtures and facilities therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- F. Minimum Heating Capability and Maintenance. In every rental dwelling unit, when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least sixty-eight (68) degrees Fahrenheit, or such lesser temperature required by government authority, shall be maintained at a distance of three (3) feet above the floor and three (3) feet from exterior walls in all habitable rooms, bathrooms and water closet compartments from September through May.
- G. Minimum Exterior Lighting. The owner of a multiple family rental building shall be responsible for providing and maintaining effective illumination in all exterior parking lots and walkways.
- H. Driveways and Parking Areas. The owner of a rental building shall be responsible for providing and maintaining in good condition paved and delineated parking areas and driveways for tenants.
- I. Yards. The owner of the building shall be responsible for providing and maintaining the yards of premises consistent with all applicable provisions in the City Code.
- J. Exterior Storage. Owners and occupants of rental dwelling units shall comply with the City's exterior storage requirements as regulated by Section 10-16 of the Zoning Ordinance.
- K. Public Nuisances. Owners and occupants of rental dwelling units shall comply with the City's public nuisance ordinance as provided for in Chapter 8 of the City Code.
- L. The property owner shall be responsible for payment of all property taxes, City utility fees, special assessments, and interest. Delinquent utility accounts shall be subject to Chapter 3 of the City Code.

**4-6-7: MAXIMUM DENSITY.** No person shall occupy nor permit or let to be occupied any rental dwelling unit for the purpose of living therein, which does not comply with the following requirements. The maximum permissible occupancy of any dwelling unit shall be determined as follows:

- A. For the first occupant, one hundred fifty (150) square feet of habitable room floor space and for every additional occupant thereof, at least one hundred (100) square feet of habitable room floor space.

- B. In no event shall the total number of occupants exceed two (2) times the number of habitable rooms, less kitchen, in the dwelling unit.

**4-6-8: GENERAL REQUIREMENTS.** No person shall occupy, as owner/occupant, or let to another occupy, any rental building or rental dwelling unit which does not comply with the following requirements, unless specifically exempt:

- A. **Minimum Ceiling Height.** In order to qualify as habitable, rooms shall have a clear ceiling height of not less than seven (7) feet; except, that in attics or top half stories used for sleeping, study, or similar activities, the ceiling height shall be not less than seven (7) feet over at least one-half (1/2) of the floor area. In calculating the floor area of such rooms in attics or top half stories, only those portions of the floor area of the room having a clear ceiling height of five (5) feet or more may be included.
- B. **Access through Sleeping Rooms and Bathrooms.** No dwelling unit containing two (2) or more sleeping rooms shall have a room arrangement such that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be gained only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hall, basement or cellar of any dwelling unit.
- C. **Foundations, Exterior Walls and Roofs.** The foundation, exterior walls, and exterior roof shall be substantially watertight and protected against vermin and rodents and shall be kept in sound condition and repair. The foundation element shall adequately support the building at all points. Every exterior wall shall be free of deterioration, holes, breaks, loose or rotting boards or timbers, and any other condition which might admit rain or dampness to the interior portion of the walls or to the interior spaces of the building. The roof shall be tight and have no defects which admit rain, and roof drainage shall be adequate to prevent rainwater from causing dampness in the walls. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. If the exterior surface is unpainted or determined by the compliance officer to be paint blistered, the surface shall be painted. If the exterior surface of the pointing of any brick, block or stone wall is loose or has fallen out, the surface shall be repaired.
- D. **Windows, Doors And Screens.** Every window, exterior door, and other exterior openings shall be substantially tight and shall be kept in sound condition and repair. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, wind, vermin and rodents from entering the building. Every openable window

shall be supplied with mesh screens, and shall be equipped with an approved lock if located less than six (6) feet above adjacent grade.

- E. Floors, Interior Walls and Ceilings. Every floor, interior wall and ceiling shall be adequately protected against the passage and harborage of vermin and rodents, and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotted flooring materials. Every interior wall and ceiling shall be free of holes and large cracks and loose plaster and shall be maintained in a tight, weatherproof condition. Toxic paint and materials with a lasting toxic effect shall not be used. The floor of every toilet room, bathroom, and kitchen shall have a smooth, hard, nonabsorbent surface and shall be capable of being easily maintained in a clean and sanitary condition.
- F. Rodent proof. Every structure and the premises upon which it is located shall be maintained in a rodent free and rodent proof condition. All openings in the exterior walls, foundations, basements, ground or first floors, and roofs, which have a one-half inch (1/2") diameter or larger opening, shall be rodent proofed in an approved manner. Interior floors or basements, cellars, and other areas in contact with the soil shall be paved with concrete or other rodent impervious material.
- G. Fences. All fences shall consist of metal, wood, masonry, or other decay resistant material. Fences shall be maintained in good condition both in appearance and in structure. Wood material, other than decay resistant varieties, shall be protected against decay by use of paint or other preservatives. All fences shall be subject to the provision of Section 10-20 of the St. Francis Zoning Ordinance.
- H. Grading And Drainage. During the period of May through October, every yard, court, passageway, and other portions of the premises on which a building stands shall be graded and drained so as to be free of standing water that constitutes a detriment to health and safety.
- I. Landscaping. Every yard of a premises on which a building stands shall be provided with lawn or combined ground cover of vegetation, garden, hedges, shrubbery, and related decorative materials, and such yard shall be maintained consistent with prevailing community standards. Multiple family dwelling sites shall be maintained in accordance with an approved city landscape plan and shall be supplied with an irrigation system.
- J. Screening. In multiple family dwelling sites, all outside trash disposal facilities, recycling containers, and outside or rooftop mechanical equipment shall be screened from view by an opaque fence or wall high enough to completely screen the equipment.

- K. Safe Building Elements. Every foundation, roof, floor, exterior and interior wall, ceilings, inside and outside stair, every porch and balcony, and every appurtenance thereto, shall be safe to use and capable of supporting loads required by the occupancy.
- L. Facilities to Function. Every supplied facility, piece of equipment or utility required under city ordinances and every chimney and flue shall be installed and maintained and shall function effectively in a safe, sound, and working condition.
- M. Discontinuance of Service or Facilities. No owner, operator, or occupant shall cause any service, facility, equipment, or utility, which is required under this Ordinance, to be removed, shut off or discontinued from any occupied building or portion thereof, except for such temporary interruptions as may be necessary while actual repairs or alterations are in process, or during temporary emergencies.

**4-6-9: MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.**

No person shall occupy, as owner/occupant, or let to another occupy, any rental building or rental dwelling unit for the purposes of living, sleeping, cooking and eating therein which do not comply with the following requirements:

**A. Kitchen Facilities.**

- 1. Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked and which is connected to an approved sewer system.
- 2. Every dwelling unit shall have an approved kitchen sink in good working condition and properly connected to an approved water supply system, and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to an approved sewer system.
- 3. Every dwelling unit shall have cabinets and/or shelves for the storage of eating, drinking, and cooking equipment and utensils and of food that does not require refrigeration for safekeeping, and a counter or table for food preparation. Said cabinets and/or shelves and counter or table shall be adequate for the permissible occupancy of the dwelling unit and shall be of sound construction and furnished with surfaces that are easily cleaned and that will not impart any toxic or deleterious effect to food.
- 4. Every dwelling unit shall have a stove or similar device for cooking food, and a refrigerator or similar device for the safe storage of food at or below forty (40) degrees Fahrenheit, which are properly installed with all necessary connections for safe, sanitary and efficient operation. Provided,



that such stove, refrigerator or similar device need not be installed when a dwelling unit is not occupied or when the occupant is expected to provide same upon occupancy, in which case, sufficient space and adequate connections for the installation and operation of said stove, refrigerator or similar device must be provided.

- B. Toilet Facilities. Within every rental dwelling unit there shall be an uninhabitable room which is equipped with an approved toilet in good working condition. Such room shall have an entrance door which affords privacy. Said toilet shall be equipped with easily cleaned surfaces, shall be connected to an approved water system that at all times provides an adequate amount of running water under pressure to cause the toilet to be operated properly, and shall be connected to an approved sewer system.
- C. Lavatory Sink. Within every rental dwelling unit there shall be an approved lavatory sink. Said lavatory sink may be in the same room as the flush water closet, or if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room in which the said water closet is located. The lavatory sink shall be in good working condition and shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated running water under pressure, and shall be connected to an approved sewer system.
- D. Bathtub or Shower. Within every rental dwelling unit there shall be an uninhabitable room which is equipped with an approved bathtub or shower in good working condition. Such room shall have an entrance which affords privacy. Said bathtub or shower may be in the same room as the flush water closet, or in another room, and shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated water under pressure, and shall be connected to an approved sewer system.
- E. Stairways, Porches and Balconies. Every stairway inside or outside of a rental dwelling and every porch or balcony shall be kept in safe condition and sound repair. Stairs, handrails and guards shall conform to the current Building Code.
- F. Access to Rental Dwelling Unit. Access to or egress from each rental dwelling unit shall be provided without passing through any other rental dwelling unit.
- G. Door Locks. No owner shall occupy nor let to another for occupancy any rental dwelling or rental dwelling unit unless all exterior doors of the dwelling or dwelling unit are equipped with safe, functioning locking devices as follows:
  - 1. Building Entrances. For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multiple family dwellings, an approved security system shall be maintained for each

multiple family building to control access. The security system shall consist of locked building entrance or foyer doors, and locked doors leading from hallways into individual dwelling units. Dead-latch type doors shall be provided with lever knobs (or doorknobs) on the inside of building entrance doors and with key cylinders on the outside of building entrance doors. Building entrance door latches shall be of a type that are permanently locked from the outside and permanently locked from the inside.

2. Interior Dwelling Unit Entrances. Every door that is designed to provide ingress or egress for a dwelling unit within a multiple family building shall be equipped with an approved lock that has a deadlocking bolt that cannot be retracted by end pressure; provided, however, that such door shall be openable from the inside without the use of a key or any special knowledge or effort.

**4-6-10: MINIMUM STANDARDS FOR LIGHT AND VENTILATION.** No person shall occupy, as owner/occupant, or let to another occupy, any rental building or rental dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- A. Habitable Room Light and Ventilation. Except where there is supplied some other device affording adequate ventilation and approved by the compliance officer, every habitable room shall have at least one window facing directly outdoors which can be opened easily. The minimum total of openable window area in every habitable room shall be the greater of ten (10) percent of the floor area of the room or ten (10) square feet. One-half (1/2) of the required window area shall be openable.
- B. Uninhabitable Room Ventilation. Every bathroom and water closet compartment, and every laundry and utility room shall contain at least fifty (50) percent of the ventilation requirement for habitable rooms contained in Section 4-6-10.A; except, that no windows shall be required if such rooms are equipped with a ventilation system which is approved by the compliance officer.
- C. Electric Service, Outlets and Fixtures. Every rental dwelling unit and all public and common areas shall be supplied with electric service, functioning over current protection devices, electric outlets, and electric fixtures which are properly installed, which shall be maintained in good and safe working condition, and which shall be connected to a source of electric power in a manner prescribed by the ordinances, rules, and regulations of the City and by the laws of the State. The minimum capacity of such electric service and the minimum number of electric outlets and fixtures shall be as follows:

1. Rental dwellings containing one (1) or two (2) rental dwelling units shall have at least the equivalent of sixty (60) ampere, three-wire electric service per dwelling unit.
  2. Rental dwelling units shall have at least one branch electric circuit for each six hundred (600) square feet of dwelling unit floor area.
  3. Every habitable room shall have at least one floor or wall type electric convenience outlet for each sixty (60) square feet or fraction thereof of total floor area and, in no case, less than two (2) such electric outlets; provided, however, that one ceiling or wall type fixture may be supplied in lieu of one required electric outlet.
  4. Every bathroom, kitchen, laundry room, and furnace room shall contain at least one (1) supplied ceiling or wall type electric light fixture, and every bathroom, kitchen, and laundry room shall contain at least one (1) electric convenience outlet. The electric convenience outlet in the bathroom shall be a GFCI outlet.
  5. Every public corridor and stairway in every rental dwelling shall be adequately lighted by natural or electric light at all times so as to provide effective illumination in all parts thereof. Every public corridor and stairway in structures containing not more than two (2) dwelling units may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full time lighting.
  6. A convenient switch or equivalent device for turning on a light in each rental dwelling unit shall be located near the point of entrance to such unit.
- D. Smoke and Carbon Dioxide Protection. Smoke and carbon dioxide alarms shall be provided in conformance with the current Building Code.

#### **4-6-11: DWELLINGS UNFIT FOR HUMAN HABITATION.**

- A. Any rental dwelling or rental dwelling unit which is damaged, decayed, dilapidated, unsanitary, unsafe, or vermin or rodent infested, or which lacks provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any rental dwelling or rental dwelling unit has been declared unfit for human habitation, the compliance officer shall order the dwelling or dwelling unit vacated within a reasonable amount of time and shall post a placard on the dwelling or dwelling unit indicating that it is unfit for human habitation and any operating license previously issued for such dwelling shall be revoked.

- B. It shall be unlawful for such rental dwelling or rental dwelling unit to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the compliance officer. It shall be unlawful for any person to deface or remove the declaration placard from any such rental dwelling or rental dwelling unit.
- C. The owner of any rental dwelling or rental dwelling unit which has been declared unfit for human habitation, or which is otherwise vacant for a period of sixty (60) days or more, shall make the dwelling or dwelling unit safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance. Any vacant dwelling open at doors or windows, if unguarded, shall be deemed to be a hazard to the health, safety and welfare of the public and a public nuisance within the meaning of this ordinance.
- D. If a rental dwelling unit has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with the provisions of State Statutes.

**4-6-12: ORDINANCE IMPLEMENTATION.** All rental housing shall file for the first license by January 15, 2014. All even numbered addresses shall file for the first renewal by January 15, 2016. All odd numbered addresses shall file for the first renewal by January 15, 2017. After first renewals, the procedure shall follow as described in Section 4-6-4.

**4-6-13: PENALTIES AND VIOLATIONS.** Any person who violates any provision of this Section shall be guilty of a misdemeanor. Every license issued under the provisions of this Section is subject to suspension or revocation by the City should the licensed owner or the owner's duly authorized agent fail to operate or maintain a licensed dwelling or unit therein consistent with the provisions of the ordinances of the City and the Laws of the State. The City shall appoint a person responsible for administration of this section who shall have the authority to investigate licensees and to suspend or revoke licenses. Revocations and suspensions may be appealed to the City Council within thirty (30) days of notice.

## SECTION 7

### VACANT BUILDING REGISTRATION

(Ord. 194, Adopted 4/7/14, Effective 5/11/14)

#### SECTION:

- 4-7-1: Purpose and Findings
- 4-7-2: Definitions
- 4-7-3: Vacant Building Registration
- 4-7-4: Maintenance of Vacant Buildings
- 4-7-5: Inspection of Vacant Buildings
- 4-7-6: Penalties

**4-7-1: PURPOSE AND FINDINGS.** The City of St. Francis is enacting this section to protect the public health, safety and welfare by establishing a program for the identification and regulation of vacant buildings. The City finds that vacant buildings are a major cause and source of blight in residential and non-residential neighborhoods. Neglect of vacant buildings, as well as use of vacant buildings by transients and criminals creates a risk of fire, explosion or flooding for the vacant building and adjacent properties. There is a substantial cost to the City for monitoring vacant buildings. This cost should not be borne by the general taxpayers of the community; but, rather, these costs should be borne by owners of the buildings.

**4-7-2: DEFINITIONS.** For the purposes of this Section, the terms defined in this subsection have the meanings given them and shall apply in the interpretation and enforcement of this article.

- A. “Abandoned property” means property not lawfully occupied that the owner has surrendered, voluntarily relinquished, disclaimed, or ceded all right, title, claim, and possession, with the intention of not reclaiming it.
- B. “Building” is any roofed structure used or intended for supporting or sheltering any use or occupancy. Building, for purposes of this Chapter, shall include a portion of a building that is separately titled such as a condominium or townhouse unit that is part of a larger building structure.
- C. “Compliance official” means the City Administrator and the City Administrator's designated agents authorized to administer and enforce this section.
- D. “Owner” or “property owner” is the owner of record of a property on which a building is located according to County property tax records, those identified as owner or owners on a vacant building registration form, a holder of recorded or an unrecorded contract for deed, a mortgagee or vendee in possession, a

mortgagor or vendor in possession, an assignee of rents, a receiver, an executor, a trustee, a lessee, or other person, firm or corporation in control of the freehold of the premises or lesser estate therein. Owner also means any person, partnership, association, corporation or fiduciary having a legal or equitable title or any interest in the property or building. This includes any partner, officer or director of any partnership, corporation, association or other legally constituted business entity. All owners shall have joint and several obligations for compliance with the provisions of this section.

- E. "Responsible party" is an owner, entity or person acting as an agent for the owner who has direct or indirect control or authority over the building or real property, upon which the building is located, or any other person or entity having a legal or equitable interest in the property. Responsible party may include but is not limited to a realtor, service provider, mortgagor, leasing agent, management company, or similar person or entity.
- F. "Unoccupied building" is a building which is not being used for legal occupancy as defined in the St. Francis City Code.
- G. "Vacant building" means a building, other than a building under construction pursuant to a valid building permit that is unoccupied for sixty (60) consecutive days.

#### **4-7-3: VACANT BUILDING REGISTRATION.**

- A. Application. The owner or responsible party shall register a vacant building with the City no later than sixty (60) days after the building becomes vacant. The registration shall be submitted on a form provided by the City and shall include the following information supplied by the owner or responsible party.
  - 1. The name, address, telephone number and email address, if applicable, of each owner and each owner's representative.
  - 2. The names, addresses, telephone numbers and email addresses, if applicable, of all known lien holders and all other persons or entities with any legal interest in the building.
  - 3. The name, address, telephone number and email address, if applicable, of a local agent or person responsible for managing or maintaining the property.
  - 4. Property identification number and street address of the premises on which the building is situated.

5. The date the building became vacant, the period of time the building is expected to remain vacant, and a written property plan and timetable as described in Section 4-7-3.D for returning the building to lawful occupancy or use, or for demolition of the building.
  6. The status of water, sewer, natural gas and electric utilities.
- B. Notification. The owner shall notify the compliance official within thirty (30) days of changes in any of the information supplied as part of the vacant building registration.
- C. Administrative Registration. If the compliance official determines that a building has been vacant for at least sixty (60) days and has not been registered by its owner or responsible parties, the compliance official may administratively register the building and attempt to notify the owner of that registration based on such information as is reasonably available to the compliance official. Properties registered administratively will be charged a registration fee and an administrative fee as established in the City's fee schedule.
- D. Property Plan. The property plan identified above in Section 4-7-3.A.5 shall meet the following requirements:
1. General Provisions. The plan shall comply with all applicable regulations as determined by the building official. It shall contain a timetable regarding use or demolition of the buildings on the property. All actions necessary for compliance with this section shall be completed within thirty (30) days after the building is registered.
  2. Maintenance of Building. The plan shall identify the means and timetable for addressing all maintenance and nuisance-related items identified in the application or arising since application, or as identified by the building official including correcting all conditions to be in compliance with Section 4-7-4 of this Code. Any repairs, improvements or alterations to the property shall comply with State Building Code provisions and applicable City regulations.
  3. Plan Changes. If the property plan or timetable for the vacant building is revised in any way for any purpose, the revisions shall be submitted to the City in writing and meet the approval of the compliance official.
  4. Demolition. Vacant buildings that are hazardous or substandard may be demolished pursuant to Minn. Stats. §§ 463.15 through 463.261. As part of a property plan, the owner may request or consent to demolition of a structure and the City may commence abatement and cost recovery proceedings for the abatement in accordance with Section 8-2-2 of the City Code and Minn. Stats. § 429.101.

- E. Fees. The owner of vacant buildings or responsible parties shall pay a fee at the time of registration. In subsequent years, fees shall be due on the anniversary date of the original registration. The fees must be paid in full prior to the issuance of any building permits. The registration fee will be in an amount set forth in the City's fee schedule. The amount of the registration fee shall be reasonably related to the City's costs incurred in the administration and enforcement of the vacant buildings registration and monitoring program described in this article.
- F. Assessment. If the registration fee or any portion is not timely paid, the City Council may certify the unpaid fees against the property in accordance with Minn. Stats. § 429.101.

**4-7-4: MAINTENANCE OF VACANT BUILDINGS.** The owner or responsible party shall comply with all City ordinances and additionally ensure the property is maintained to the following standards:

- A. Appearance. All vacant buildings shall be maintained as required in Chapter 8 of the City Code. All vacant buildings shall be maintained and kept as to appear to be occupied.
- B. Security. All vacant buildings shall be secured from unauthorized entry. Security shall be ensured by normal building amenities such as windows and doors having adequate strength to resist intrusion. All doors and windows shall remain locked. There shall be at least one operable door into every building and into each room within the building. Exterior doors, walls, windows, and roofs shall be without holes or significant structural defects.
- C. Temporary Securing. Untreated plywood or similar structural panels or temporary construction fencing may be used to secure windows, doors, and other openings for a maximum period of thirty (30) days.
- D. Emergency Securing. The compliance official may take immediate steps to secure a vacant building at his or her discretion in emergency circumstances with such costs for securing at the expense of the property owner plus any administrative fees as set forth in the City's fee schedule.
- E. Fire Safety.
  - 1. Owners of non-residential vacant buildings shall maintain all fire protection systems, appliances, and assemblies in operating condition.
  - 2. The owner of any vacant building shall remove all hazardous material and hazardous refuse that could constitute a fire hazard or contribute to the spread of fire.



- F. Plumbing Fixtures. Plumbing fixtures and pipes shall be maintained in sound condition and good repair. The water system shall be protected from freezing.
- G. Electrical. Electrical service lines, wiring, outlets, or fixtures shall be maintained in good condition or repaired.
- H. Heating. Heating systems shall be maintained in good condition or repaired.
- I. Discontinuance of Utilities. Utilities may be discontinued in a vacant building but the plumbing, electrical, and heating systems and fixtures shall be maintained or repaired as to be capable of competent operation when utility services are restored.
- J. Termination of Utilities. The Compliance Official may order the termination of water, sewer, electricity, or gas service to the vacant building. Prior to the termination of any utility service, written notice must be given to the owner. The Compliance Official may authorize immediate termination of utilities in emergency circumstances. No utility terminated by order or action of the Compliance Official may be restored without consent of the Compliance Official.
- K. Exterior Maintenance. The owner must comply with all applicable property maintenance regulations and City Codes including but not limited to the maintenance of vegetation as required by Section 8-2-3 and ice and snow removal as required by Section 7-2-1.

#### **4-7-5: INSPECTION OF VACANT BUILDINGS.**

- A. Inspection. Registration of a vacant building shall constitute consent by the owner or responsible party to the City to go upon the property for inspection purposes. The compliance official may inspect any vacant building in the City for the purpose of enforcing and assuring compliance with this article and other applicable regulations. Upon the request of the compliance official, an owner or responsible party shall provide access to all interior portions of the building(s) and the exterior of the property in order to complete an inspection. If the owner or responsible party is not available, is unresponsive, or refuses to provide access to the interior of the building, the City may use any legal means to gain entrance to the building for inspection purposes.
- B. Notice of Violation. All violations found by the compliance official during the inspection in Section 4-7-4.A shall be corrected by the owner within the period of time established by the compliance official in the notice of violation. The period to correct the violations shall follow the procedure established in Section 2-11-3 of the City Code.

- C. Re-occupancy Inspection. Prior to any re-occupancy or reuse, the owner or responsible party shall request an inspection of the vacant building by the compliance official to determine the building is fit for human occupation consistent with the Minnesota State Building Code. All applicable building permit fees as needed shall be paid prior to building occupancy.

**4-7-6: PENALTIES.** Any person or responsible party who violates the provisions of this Chapter is subject to penalty as provided under Section 2-1-2 of this Code. Nothing in this section, however, is deemed to impair other remedies available to the City under this Code or state law including, but not limited to, Minn. Stats. §§ 463.15 through 463.261 and City Code Section 2-11.

## CHAPTER 5

### ALCOHOLIC BEVERAGES LICENSING AND REGULATION

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## SECTION 1

### LICENSING AND GENERAL PROVISIONS

#### SECTION:

- 5-1-1: Violation a Misdemeanor
- 5-1-2: Definitions
- 5-1-3: Applications and Licenses Under this Chapter – Procedure and Administration
- 5-1-4: Renewal License Applications
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- 5-1-11: License Condition and Unlawful Act
- 5-1-12: Fixing License Fees
- 5-1-13: Financial Responsibility of Licensees
- 5-1-14: Insurance Certificate Requirements

**5-1-1: VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except otherwise stated in specific provisions hereof.

**5-1-2: DEFINITIONS.** As used in this Code, unless otherwise state in specific sections, the following works and terms shall have the meanings stated:

- A. “Alcoholic Beverage” means any beverage containing more than one-half of one percent alcohol by volume, including, but not limited to, beer, wine, and liquor as defined in this Code.
- B. “Applicant” means any person making an application for a license under this Chapter.
- C. “Application” means a form with blanks or spaces thereon, to be filled in and completed by the applicant at his/her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

- D. “Beer” means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. (This definition includes so-called “malt coolers” with the alcoholic content limits stated herein.)
- E. “Brewer” means a person who manufactures beer for sale.
- F. “Club” means an incorporated organization organized under the laws of the State for civic, fraternal, social or business purposes, for intellectual improvement or for the promotion of sports, or a congressionally chartered veterans’ organization which: (1) has more than fifty (50) members; (2) has owned or rented a building or space in a building for more than one (1) year that is suitable and adequate for the accommodation of its members; (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution of sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body. Such club or congressionally chartered veterans’ organization must have been in existence for at least three (3) years.
- G. “Commissioner” means the Minnesota Commissioner of Public Safety.
- H. “License” means a document, issued by the City, to an applicant permitting him to carry on and transact the business stated therein.
- I. “Licensee” means an applicant who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension, from the City for carrying on the business stated therein.
- J. “License Fee” means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.
- K. “Licensed Premises” means the premises described in the issued license.
- L. “Liquor” means ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight. (This definition includes so-called “wine coolers” and “malt coolers” with the alcoholic content limits stated herein.)
- M. “Malt Liquor” means any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half (1/2) of one (1) percent alcohol by volume.
- N. “Manufacturer” means every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

- O. “Minor” means any natural person who has not attained the age of twenty-one (21) years.
- P. “Off-Sale” means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.
- Q. “On-Sale” means the sale of alcoholic beverages for consumption on the licensed premises only.
- R. “Package” and “Original Package” mean any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.
- S. “Restaurant” means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public, and having seating capacity for at least fifty (50) guests.
- T. “Sale”, “Sell”, and “Sold” mean all barbers and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.
- U. “Wholesaler” means any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.
- V. “Wine” means a beverage made without rectification or fortification by the fermentation of sound ripe grapes, grape juice, other fruits, or honey, and also carbonated wine, wine made from condensed grape must, wine made from other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, containing not less than one-half (1/2) of one (1) percent nor more than fourteen (14) percent alcohol by volume. (This definition includes so-called “wine coolers” with the alcoholic content limits stated herein.)
- W. “Brewery Tap Room” means an area accessory to a brewery for the on-sale consumption of malt liquor produced by the brewer for consumption on the premises.
- X. “Brewery, Small” means a brewery that produces not more than twenty thousand (20,000) barrels of malt liquor in a calendar year as regulated by Minnesota Statutes, as may be amended.
- Y. “Brewpub” means a restaurant with a small brewery on the same premises intended for the service of malt liquor to the patrons of the restaurant.
- Z. “Cocktail Room” means an accessory facility to a microdistillery for the on-sale consumption of distilled spirits produced on the premises as allowed by Minnesota Statutes as may be amended.

- AA. “Microdistillery means a distillery defined by the State in Statute Section 340A.101 producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

(Ord. 207, SS 11/23/15)

**5-1-3: APPLICATIONS AND LICENSES UNDER THIS CHAPTER –  
PROCEDURE AND ADMINISTRATION.**

- A. Application. All applications shall be made at the office of the City Clerk/Treasurer upon forms prescribed by the City, or if by the Commissioner, then together with such additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. Every application for the issuance or renewal of an alcoholic beverage license must include a copy of each summons received by the applicant during the preceding year under Minnesota Statutes, Section 340A.802.
- B. False Statements. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part thereof.
- C. Application and Investigation Fees. At the time the initial or transfer application is made, an applicant with payment of a fee to be considered an application and investigation fee, not refundable to the applicant, to cover the cost of the City in processing the application and the investigation of the applicant. No such fee shall be required of an applicant for a temporary beer license.
- D. Action.
1. Granting. The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter. Prior to consideration of any application for a license, the applicant shall pay the license fee, and if applicable, pay the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before consideration by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.



2. Issuing. If an application is approved, the City Clerk/Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the City or the Commissioner, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.
3. Transfer. No license shall be transferable between persons or to a different location. Any change in individual ownership, incorporation, or substitution of partners is a transfer. It is unlawful to make any transfer in violation of this Subparagraph.
4. Refusal and Termination. The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.
5. Public Interest. No license under this Chapter may be issued, transferred, or renewed if the results of any such investigation show, to the satisfaction of the Council, that such issuance, transfer, or renewal would not be in the public interest.
6. Revocation or Suspension. The Council shall revoke or suspend, for a period not to exceed sixty (60) days, a license granted under the provisions of this Chapter, or impose a civil fine not to exceed \$2000.00, for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the City Code relating to alcoholic beverages. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or if such revocation is mandatory by Statute. If it shall be made to appear at the hearing hereon that such violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third such violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee service in person or by certified mail not less than fifteen (15) nor more than thirty (30) days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this Chapter, and in addition to grounds for revocation or suspension stated in the City Code or Statute,

the following shall also be grounds for such action: (1) that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor; (2) that the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police; (3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts upon licensed premises; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare.

7. Corporate Applications and Licensees. A corporate applicant, at the time of application, shall furnish the City with a list of all persons that have an interest in such corporation and the extent of such interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Clerk/Treasurer in writing of any change in legal ownership, or beneficial interest in such corporation or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked thirty (30) days after any such change in ownership or beneficial interest of shares unless the Council has been notified of the change in writing and has approved it by appropriate action. The Council, or any officer of the City designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.
- E. Duplicate Licenses. Duplicates of all original licenses under this Chapter may be issued by the City Clerk/Treasurer without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of the fee adopted by resolution of the Council for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.
- F. Posting. All licensees shall conspicuously post their licenses in their places of business.

G. Resident Manager or Agent. Before a license is issued under this Chapter to an individual who is a non-resident of the State, to more than one individual whether or not they are residents of the State, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the State as its manager or agent. Such resident manager or agent shall, by the terms of this written consent; (1) take full responsibility for the conduct of the licensed premises, and, (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to be a resident of the State or ceases to act in such capacity for the licensee without appointment of a successor, the licensee issued pursuant to such appointment shall be subject to revocation or suspension.

H. Persons Disqualified.

1. No license under this Chapter may be issued, or renewed, to: (1) a person not a citizen of the United States or a resident alien; (2) a person who within five years of the license application has been convicted of a willful violation of a Federal or State law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages; (3) a person who has had an alcoholic beverage license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporate licensee, as a partner or otherwise in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; (4) a person under the age of twenty-one years; or, (5) a person not of good moral character and repute.
2. No person holding a license from the Commissioner as a manufacturer, brewer, or wholesaler may have any ownership, in whole or in part, in a business holding an alcoholic beverage license from the City unless otherwise permitted. (Ord. 207, SS 11/23/15)

**5-1-4: RENEWAL LICENSE APPLICATIONS.** Applications for renewal of all licenses under this Chapter shall be made at least sixty (60) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

**5-1-5: DELINQUENT TAXES AND CHARGES.** No license under this Chapter shall be granted for operation on any premises upon which taxes, assessments, or

installments thereof, or other financial claims of the City, are owed and are delinquent and unpaid.

**5-1-6:       CONDITIONAL LICENSES.** Notwithstanding any provision of law to the contrary, the Council may, upon finding of the necessity therefore, place such special conditions and restrictions, in addition to those stated in this Code, upon any license as it, in its discretion, may deem reasonable and justified.

**5-1-7:       PREMISES LICENSED.** Unless expressly stated therein, a license issued under the provisions of this Chapter shall be valid only in the compact and contiguous building or structure situated on the premises described in the license, and all transactions relating to a sale under such license must take place within such building or structure.

**5-1-8:       UNLAWFUL ACTS.**

- A.     Consumption. It is unlawful for any person to consume, or any licensee to permit consumption of, alcoholic beverages on licensed premises more than twenty (20) minutes after the hour when a sale thereof can legally be made.
- B.     Removal of Containers. It is unlawful for any on-sale licensee to permit any glass, bottle or other container, containing alcoholic beverages in any quantity, to remain upon any table, bar, stool or other place where customers are served, more than twenty (20) minutes after the hour when a sale thereof can legally be made.
- C.     Closing. It is unlawful for any person, other than an on-sale licensee or his bona fide employee actually engaged in the performance of his duties, to be on premises licensed under this Chapter more than thirty (30) minutes after the legal time for making licensed sales.
- D.     Exception. Section 5-1-8.C of this Code shall not apply to licensees, employees of licensees and patrons on licensed premises for the sole purpose of preparing, serving or consuming food or beverages other than alcoholic beverages, or engaging in bowling, or serving bowlers on such premises.

**5-1-9:       CONDUCT ON LICENSED PREMISES.** Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order therein.

**5-1-10: SALE BY EMPLOYEE.** Any sale of an alcoholic beverage in or from any premises licensed under this Chapter by any employee authorized to make such sale in or from such place is the act of the employer as well as of the person actually making the sale; and every such employer is liable to all of the penalties, except criminal penalties, provided by law for such sale, equally with the person actually making the sale.

**5-1-11: LICENSE CONDITION AND UNLAWFUL ACT.**

- A. All premises licensed under this Chapter shall at all times be open to inspection by any police officer to determine whether or not this Chapter and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection by such officers and without a warrant for searches or seizures.
- B. It is unlawful for any licensee, or agent or employee of a licensee, to hinder to prevent a police officer from making such inspection.

**5-1-12: FIXING LICENSE FEES.** Except as otherwise specifically provided, all fees for licenses provided for in this Code, including, but not by way of limitation, license fees, investigation and administration fees, shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may, from time-to-time, be amended by the Council by resolution. A copy of the resolution shall be kept on file in the office of the City Clerk/Treasurer and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may categorize and classify, provided, that such categorization and classification shall be included in the resolution authorized by this Code.

**5-1-13: FINANCIAL RESPONSIBILITY OF LICENSEES.**

- A. Proof. No alcoholic beverage license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility, imposed by Statute, by filing with the City:
  - 1. A certificate that there is in effect an insurance policy or pool providing minimum coverages of (1) \$50,000.00 because of bodily injury to any one (1) person in any one occurrence, and, subject to the limit for one (1) person, in the amount of \$100,000.00 because of bodily injury to two (2) or more persons in any one occurrence, and in the amount of \$10,000.00 because of injury to or destruction of property of others in any one (1) occurrence, and (2) \$50,000.00 for loss of means of support of any one (1) person in any one (1) occurrence, and subject to the limit for one (1) person, \$100,000.00 for loss of means of support of two (2) or more

persons in any one occurrence; an annual aggregate of \$300,000.00 may be included in the insurance coverage; or,

2. A bond of a surety company with minimum coverages as provided in Subparagraph A of this Subdivision; or,
  3. A certificate of the State Treasurer that the licensee has deposited with him/her \$100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.00.
- B. Exception. This Code does not apply to on-sale beer licensees with sales of beer of less than \$10,000.00 for the preceding year, nor to off-sale beer licensees with sales of beer of less than \$20,000.00 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than \$10,000.00 for the preceding year. An affidavit of the licensee shall be required to establish the exemption under this Subdivision.
- C. Documents Submitted to Commissioner. All proofs of financial responsibility and exemption affidavits filed with the City under this Code shall be submitted by the City to the Commissioner.

**5-1-14: INSURANCE CERTIFICATE REQUIREMENTS.** Whenever an insurance certificate is required by this Chapter the applicant shall file with the City Clerk/Treasurer a certificate of insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be cancelled or terminated without thirty (30) days' written notice served upon the City Clerk/Treasurer. Cancellation or termination of such coverage shall be grounds for license revocation.

## SECTION 2

### GENERAL UNLAWFUL ACTS

#### SECTION:

- 5-2-1: Minors as Defined in Section 5-1-2
- 5-2-2: Gambling Prohibited
- 5-2-3: Consumption and Possession of Alcoholic Beverages on Streets, Public Property, and Private Parking Lots to Which the Public Has Access
- 5-2-4: Alcoholic Beverages in Certain Buildings and Grounds
- 5-2-5: Alcoholic Beverages – Certain Unlawful Acts
- 5-2-6: Nudity or Obscenity Prohibited

#### **5-2-1: MINORS AS DEFINED IN SECTION 5.01.**

- A. Consumption. It is unlawful for any:
  - 1. Licensee to permit any minor to consume alcoholic beverages on licensed premises.
  - 2. Minor to consume alcoholic beverages except in the household of the minor's parent or guardian, and then only with the consent of such parent or guardian.
- B. Purchasing. It is unlawful for any:
  - 1. Person to sell, barter, furnish, or give alcoholic beverages to a minor unless such person is the parent or guardian of the minor, and then only for consumption in the household of such parent or guardian.
  - 2. Minor to purchase or attempt to purchase any alcoholic beverage.
  - 3. Person to induce a minor to purchase or procure any alcoholic beverage.
- C. Possession. It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian is a prima facie evidence of intent to consume it at a place other than the household of his/her parent or guardian.
- D. Entering Licensed Premises. It is unlawful for any minor, as defined in this Code, to enter licensed premises or the municipal liquor store for the purpose of purchasing or consuming any alcoholic beverages. It is not unlawful for any person who has attained the age of eighteen (18) years to enter licensed

premises for the following purposes: (1) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute; (2) to consume meals; and (3) to attend social functions that are held in a portion of the establishment where liquor is not sold. It is unlawful for a licensee to permit a person under the age of eighteen (18) to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

- E. Misrepresentation of Age. It is unlawful for a minor to misrepresent his/her age for the purpose of purchasing an alcoholic beverage.
- F. Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license, a Minnesota identification card, or, in the case of a foreign national, by a valid passport.

**5-2-2: GAMBLING PROHIBITED.** It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation on licensed premises of dice or any other gambling device, or permit raffles to be conducted, except such as are authorized by Statute or the City Code.

**5-2-3: CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS.** It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any (1) City park, (2) street, (3) public property, or (4) private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the Council. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

**5-2-4: ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.** It is unlawful for any person to introduce upon, or have in his possession upon, or in, any school ground, or any schoolhouse or school building, any alcoholic beverage, except for experiments in laboratories and except for those organization who have been issued temporary licenses to sell beer, and for any person to possess beer as a result of a purchase from those organizations holding temporary licenses.



**5-2-5: ALCOHOLIC BEVERAGES – CERTAIN UNLAWFUL ACTS.** It is unlawful for any:

- A. Person to knowingly induce another to make an illegal sale or purchase of an alcoholic beverage.
- B. Licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated.
- C. Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.
- D. Licensee to sell an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.
- E. Licensee to allow consumption of an alcoholic beverage on licensed premises on any day, or during any hour, when such consumption is not permitted by law.
- F. Person to purchase an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

Source: City Code

Effective Date: 06-01-1990

**5-2-6: SECTION 5.80. NUDITY OR OBSCENITY PROHIBITED.**

- A. Definitions. As used in this Code, the following words and terms shall have the meanings stated:
  - 1. “Nudity” means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For the purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.
  - 2. “Obscene performance” means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which a whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal description or narrative accounts of sexual conduct.
  - 3. “Obscenities” means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female

breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in content are clearly used for their bodily, sexual or excretory meaning.

4. "Sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being bettered, bound or otherwise physically restrained on the part of one so clothed.
  5. "Sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
  6. "Sexual excitement" means the condition of a human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.
- B. Unlawful Act. It is unlawful for any person issued a license provided for in this Code or permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.

## SECTION 3

### BEER LICENSING AND PROVISIONS

#### SECTION:

- 5-3-1: Beer License Required
- 5-3-2: Temporary Beer License
- 5-3-3: Hours and Days of Beer Sales
- 5-3-4: Strong Beer Sales in Restaurants Having Beer and Wine Licenses

**5-3-1: BEER LICENSE REQUIRED.** It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of beer, as part of a commercial transaction, without a license therefore from the City. This Section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the City.

#### **5-3-2: TEMPORARY BEER LICENSE.**

- A. Applicant. A club or charitable, religious, or non-profit organization shall qualify for a temporary on-sale beer license.
- B. Conditions.
  - 1. An application for a temporary license shall state the exact dates and place of proposed temporary sale.
  - 2. No applicant shall qualify for a temporary license for more than a total of fourteen (14) days in any calendar year.
  - 3. The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the 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 at least the sum of \$50,000.00 for injury to any one person and \$100,000.00 for injury to more than one person, and \$10,000.00 for property damage, naming the City as an insured during the license period. Such license shall be issued only on the condition that the applicant will not sell in excess of \$10,000.00 (retail value) worth of beer in any calendar year, and thereupon shall be exempt from proof of financial responsibility as provided for herein.

**5-3-3: HOURS AND DAYS OF BEER SALES.** Hours and days of beer sales will be as outlined in Minn. Stat. Sec. 340A.504 and other applicable state law except that no on-sales may occur after 1:00 AM until the beginning of the next morning sales as permitted by state law.

(Ord 228, SS, 05-15-17; Effective 07-01-17)

**5-3-4: STRONG BEER SALES IN RESTAURANTS HAVING BEER AND WINE LICENSES.** A restaurant that is the holder of both an on-sale wine license and an on-sale beer license may sell malt liquor containing more than 3.2 percent alcohol by weight (excluding so-called “wine coolers” which are covered by the wine definition) at on-sale without an additional license provided that the gross receipts of the establishment subject to the license are at least sixty (60) percent attributable to food sales. Failure to provide such information shall constitute grounds for revocation of the license. (Ord 78, SS, 11-3-2003)

## SECTION 4

### LIQUOR LICENSING AND PROVISIONS

#### SECTION:

- 5-4-1: Liquor License Required
- 5-4-2: Sunday Sales
- 5-4-3: Hours and Days of Liquor Sales
- 5-4-4: On-Sale Wine Licenses Required
- 5-4-5: Hours and Days of Sales by On-Sale Wine Licensees
- 5-4-6: Liquor and On-Sale Wine License Restrictions, Regulations and Unlawful Acts

**5-4-1: LIQUOR LICENSE REQUIRED.** It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of liquor, as part of a commercial transaction, without a license therefore from the City. This Section shall not apply (1) to such potable liquors as are intended for therapeutic purposes and not as a beverage, (2) to industrial alcohol and its compounds not prepared or used for beverage purposes, (3) to wine in the possession of a person duly licensed under this Chapter as an on-sale wine licensee, (4) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, (5) to sales by wholesalers to persons holding liquor licenses from the City, or (6) to the municipal liquor store. The voters of the City having authorized such issuance at a special election called for that purpose, the City may issue on-sale liquor licenses to (1) restaurants; and, (2) clubs, or congressionally chartered veterans' organizations, provided that liquor sales will be made only to members and bona fide guests.

#### **5-4-2: SUNDAY SALES.** (Ord 72, SS, 6-16-2003)

- A. License Required. The electorate of the City having heretofore authorized the same at a general or special election, a Sunday on-sale liquor license may be issued to restaurants or clubs in conjunction with the sale of food, which have on-sale liquor licenses and which also have seating capacity for not less than fifty (50) guests at one time. Prior to issuance of such license, the applicant shall provide the City with proof of financial responsibility for Sunday sales.
- B. Hours of Sale. The hours of Sunday on-sale liquor sales shall be as outlined in Minn. Stat. Sec. 340A.504 and other applicable state law except that no on-sales may occur after 1:00 AM until the beginning of the next morning sales as permitted by state law, provided that the license is in conformance with the Minnesota Clean Air Act.

- C. Unlawful Acts. It is unlawful to sell on-sale liquor on Sunday unless such sales are (1) licensed in accordance with this Section, (2) in conjunction with the sale of food, and (3) during hours of permitted sales.

(Ord 228, SS 05-15-17, Effective Date 07-01-17)

**5-4-3: HOURS AND DAYS OF LIQUOR SALES.** Hours and days of Liquor Sales will be as outlined in Minn. Stat. Sec. 340A.504 and other applicable state law except that no on-sales may occur after 1:00 AM until the beginning of the next morning sales as permitted by state law.

(Ord 228, SS 05-15-17, Effective Date 07-01-17)

**5-4-4: ON-SALE WINE LICENSES REQUIRED.** It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of wine on-sale, as part of a commercial transaction, without a license therefore from the City. This Section shall not apply (1) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, (2) to sales by wholesalers to persons holding on-sale or off-sale liquor licenses from the City, (3) to sales by wholesalers to persons holding on-sale wine licenses from the City, or (4) to sales by on-sale liquor licensees on days and during hours when on-sale liquor sales are permitted.

**5-4-5: HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.** Hours and days of on-sales for wine will be as outlined in Minn. Stat. Sec. 340A.504 and other applicable state law except that no on-sales may occur after 1:00 AM until the beginning of the next morning sales as permitted by state law.

(Ord 228, SS 05-15-17, Effective Date 07-01-17)

**5-4-6: LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.**

A. Limitations on Issuance of Licenses to One Person or Place.

1. No on-sale liquor license may be issued to any one person for more than one place in the City. Any person holding an interest on two (2) or more such licenses in the City shall be deemed to hold more than one license.
2. For the purpose of this Section, the term "interest": (1) includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, and a person who received money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail business; and, (2) does not include loans; rental agreements; open

accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, supplies to the establishment; an interest in a corporation owning or operating a hotel but having at least one hundred fifty (150) or more rental units holding a liquor license in conjunction therewith; or ten (10) percent or less interest in any other corporation holding a license.

3. In determining whether an “interest” exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment to the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this Subdivision must be considered.
- B. **Licenses in Connection With Premises of Another.** A license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this Chapter. This Subdivision does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a non-citizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this Chapter.
  - C. **Employment of Minors.** No person under eighteen (18) years of age may sell or serve liquor or wine on licensed premises.
  - D. **Premises Eligible.** On-sale wine licenses shall be granted only to restaurants as defined in this Code. Provided, however, for purposes of this Section, such restaurant shall have appropriate facilities for seating not less than twenty-five (25) guests at one time.
  - E. **Investment.** No on-sale liquor or wine license shall be granted to any person which does not have invested or does not propose to invest in the fixtures and structure of the licensed establishment, exclusive of land, at least \$300,000.00. The Council may provide for an independent appraisal, at the expense of the applicant, as an aid in determining such value. If this provision is not complied with within one (1) year from the date of issuance of the license, the same shall be grounds for refusal or revocation of the license. This provision shall not apply to a person who was a licensee on the effective date of this Section, or to the heirs, assigns, or successors of such licensee, or to any subsequent addition, enlargement, or alteration of such licensed premises.
  - F. **Church and School Restriction.** No license shall be granted for any building within three hundred (300) feet of any public elementary or secondary school structure or within three hundred (300) feet of any church structure. In measuring this distance, measurement shall be from the nearest door of the premises to be licensed to the nearest door of any school or church.





**SECTION 5**  
**CLUB LICENSE REGULATIONS**

**SECTION:**

5-5-1: Club License Restrictions and Regulations and Unlawful Acts

**5-5-1: CLUB LICENSE RESTRICTIONS AND REGULATIONS, AND UNLAWFUL ACTS.**

- A. Definitions. The following terms, as used in this Code, shall have the meanings stated:
1. "Member" means any person in good standing according to rules and regulations of the licensed club, wherever located, having evidence of current membership upon his/her person.
  2. "Guest" means a person not a member of the club but present on the club licensed premises in the company of a host member.
  3. "Host Member" means a member who is entertaining a guest who is in the member's company at all times such guest is on the licensed premises.
- B. Daily Register. In addition to all other general provisions, restrictions and regulations set forth in this Code, relating to beer or liquor licensees, as the case may be, all club licensees shall keep a daily register showing the names of guests present and the name of the host member. Such register shall be open to inspection by police officers at all times.
- C. Unlawful Acts. The following are in addition to all other unlawful acts set forth in this Code relating to sales and purchases of beer and liquor, as the case may be:
1. It is unlawful for a club licensee to sell liquor or beer to any person not a member, or a bona fide guest of a member, of the licensed club.
  2. It is unlawful for any club licensee to serve beer or liquor to any non-member of the licensed club unless such non-member is a guest.
  3. It is unlawful for any person who is not a member, or a bona fide guest of a member, of the licensed club to purchase liquor or beer from the club.
  4. It is unlawful for any club licensee to hinder or prevent a police officer from determining compliance with this Code, and all other laws.

5. It is unlawful for any person to refuse, upon request of a licensee or police officer, to provide information as to whether he or she is a member, guest or host member, or to give false, fraudulent or misleading information in response to such request.

**SECTION 6**  
**MUNICIPAL DISPENSARY**

**SECTION:**

5-6-1:           Municipal Dispensary

**5-6-1:           MUNICIPAL DISPENSARY.**

- A.     Establishment. A Municipal Dispensary is hereby established to be operated within the City for the sale of alcoholic beverages. Such Dispensary shall be at such place or places as the Council shall determine and may be either leased or owned by the City. It shall be in the charge of a person known as the Manager who shall have such assistants as may be necessary. All employees, including the Manager shall hold their positions at the pleasure of the Council.
  
- B.     Dispensary Fund. A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the Dispensary shall be paid, and from which all operating expenses shall be paid. Any surplus accumulating in this Fund may, from time to time, be transferred to the General Fund by resolution of the Council, and expended for any municipal purpose.



## SECTION 7

### CONSUMPTION AND DISPLAY

#### SECTION:

5-7-1: Consumption and Display

#### **5-7-1: CONSUMPTION AND DISPLAY.**

- A. Consumption and Display License Required. It is unlawful for any business establishment or club, not holding an on-sale liquor license to directly or indirectly, or on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of any liquid for the purpose of mixing the same with liquor, or permit its members to bring and keep a personal supply of liquor in lockers assigned to such members, without a license therefore from the City.
- B. Consumption and Display Restrictions and Regulations.
1. Eligible Licensees. If the applicant is otherwise eligible, licenses may be issued only to (1) persons who have not, within five years prior to application, been convicted of a felony or of violating provisions of this Chapter or other law relating to the sale of furnishing of alcoholic beverages; (2) a restaurant; (3) a hotel; (4) a beer licensee; (5) a resort as defined by statute; or (6) a club or an unincorporated club otherwise meeting the definition of a club, provided, that no license may be issued to a club holding an on-sale liquor license.
  2. Unlawful Act. It is unlawful to sell liquor on licensed premises.
  3. License Expiration. In order to coordinate the expiration of a consumption and display license with a State permit, all licenses shall expire on June 30 of each year.
  4. State Permit Required. Licenses shall be issued only to holders of a consumption and display permit from the Commissioner.
  5. Lockers. A club to which a license is issued under this Section may allow members to bring and keep a personal supply of liquor in lockers on the club's premises. All bottles kept on the premises must have attached labels signed by the member. No minor may keep a supply of liquor on club premises.
  6. Hours and Days. No licensee may permit a person to consume or display liquor, and no person may consume or display liquor between 1:00 AM

and 12:00 Noon on Sundays, and between 1:00 AM and 8:00 AM on Monday through Saturday.

## SECTION 8

### PRODUCTION FACILITY SALES

**5-8-1: Taproom License:** Taproom licenses may be granted only to a brewery licensed under Minn. Stat. 340A.601, subdivision 6, clause (c), (i) or (j) for on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. All relevant codes related to the serving of malt liquor shall be adhered to.

**5-8-2: Cocktail Room License:** Cocktail room licenses may be granted only to the holder of a microdistillery licensed under Minn. Stat. 340A.301, Subdivision 6c. A cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. All relevant codes related to the serving of liquor shall be adhered to.

**5-8-3: Brewpub License:** Restaurants otherwise licensed within this code may receive a brewpub license for the on-sale provision of malt liquor or beer produced on the site consistent with Minnesota State Statutes 340A.24.

**5-8-4: Small Brewer & Brewpub Off-Sale License:** Small breweries and brewpubs may receive a license for the off-sale consistent with Minnesota State Statutes 340A.28 and 340A.24 Subd 2.

Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time in Section 5-4-3. All malt liquor sold under this license shall be packaged in the manner required by Minnesota Statutes Section 340A.285 as may be amended. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under Section 5-8-3, the brewer's total retail sales on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

**5-8-5: Sunday Sales:** Off-sale licenses granted pursuant to Section 5-8-4 may receive a Sunday sales license provided that the sales are limited to the legal hours for off-sale in the city for Sundays in Section 5-4-3 unless otherwise limited by holiday hours.

(Ord 228, SS 05-15-17, Effective Date 07-01-17)

**CHAPTER 6**  
**BUSINESS REGULATION AND LICENSING**

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## SECTION 1

### ADMINISTRATION

#### SECTION:

- 6-1-1: Violation a Misdemeanor
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- 6-1-3: Applications
- 6-1-4: Inspections
- 6-1-5: Action on Application, Transfer, Termination, and Duplicate License
- 6-1-6: Fixing License Fees
- 6-1-7: Carrying or Posting
- 6-1-8: Penalty for Property Owner
- 6-1-9: Responsibility of Licensee
- 6-1-10: Renewal of Licenses
- 6-1-11: Insurance Requirements
- 6-1-12: License Denial and Fixing Rates – Hearing
- 6-1-13: Worker's Compensation

**6-1-1: VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Section when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Effective Date: 06-01-1990

**6-1-2: DEFINITIONS.** As used in this Chapter, the following words and terms shall have the meanings stated:

- A. "Applicant" means any person making an application for a license under this Chapter.
- B. "Application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.
- C. "Bond" means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.
- D. "Business" means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

- E. "License" means a document issued by the City to an applicant permitting him to carry on and transact a business.
- F. "Licensee" means an applicant who, pursuant to his application, holds a valid, current, un-expired and un-revoked license from the City for carrying on a business.
- G. "License fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.
- H. "Sale", "Sell" and "Sold" mean all forms of barter and all manner or means of furnishing merchandise to persons.

**6-1-3: APPLICATIONS.** All applications shall be made as follows:

- A. All applications shall be made at the office of the City Clerk/Treasurer upon forms that have been furnished by the City for such purposes.
- B. Unless otherwise provided for in this Chapter, all such applications must be subscribed, sworn to, and include such information as the Council deems necessary considering the nature of the business for which license application is made.
- C. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part hereof.
- D. The City Clerk/Treasurer shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he deems necessary. For such investigation the City Clerk/Treasurer may enlist the aid of the Chief of Police. The Council shall not consider an application before such investigation has been completed.
- E. Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

**6-1-4: INSPECTIONS.** Upon the filing of an application for a license, or at any time during the license period, the premises upon which the licensed activity is to take place, or is presently taking place, shall be open to inspection by the City.

**6-1-5: ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.**

- A. Granting. The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. Failure to pay any portion of a fee when due shall be cause for revocation. No license fee shall be refundable upon revocation or voluntarily ceasing to carry on the licensed activity. All applications, including proposed license periods, must be consistent with this Chapter.
- B. Issuing. If an application is approved, the City Clerk/Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the Council, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of 1/12<sup>th</sup> for each calendar month or part thereof remaining in the then current license year. Provided, that for licenses where the fee is less than \$100.00 a minimum license fee equal to one-half of the annual license fee shall be charged. Except as to licenses which are specifically City-wide, licenses shall be valid only at one location and on the premises therein described.
- C. Transfer. Unless otherwise provided herein, no license shall be transferable between persons or to a different location. It is unlawful to make any transfer in violation of this Subdivision.
- D. Termination. Licenses shall terminate only by expiration or revocation.
- E. Refusal and Revocation. The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing. Grounds for revocation may be, but are not limited to, any of the following: (1) that the licensee suffered or permitted illegal acts upon licensed premises; (2) that the licensee had knowledge of such illegal acts but failed to report the same to police; (3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare.
- F. Duplicate License. Duplicates of all original licenses may be issued by the City Clerk/Treasurer, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee in an amount adopted by

resolution of the Council for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

**6-1-6: FIXING LICENSE FEES.** Except as otherwise herein provided, all fees for license, late fee penalties, and investigation of applicants under this Chapter shall be fixed and determined by the Council, adopted by ordinance\_and uniformly enforced. Such license fees may, from time-to-time, be amended by Council by ordinance. A copy of the ordinance setting forth currently effective license fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement, provided, that any such subdivision or categorization shall be included in the ordinance authorized by this Section.

Source: Ordinance 145, SS  
Effective Date: February 6, 2010

**6-1-7: CARRYING OR POSTING.** All solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in the place of business near the licensed activity. Provided, however, that in the case of a machine or other device licensing, the City may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand and any officer or citizen.

**6-1-8: PENALTY FOR PROPERTY OWNER.** It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used, without a license, for any business for which a license is required by this Chapter.

**6-1-9: RESPONSIBILITY OF LICENSEE.** Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefore, place such conditions and restrictions upon a license as it, in its direction, may deem reasonable and justified.

**6-1-10: RENEWAL OF LICENSES.** Applications for renewal of an existing license shall be made at least thirty (30) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

**6-1-11: INSURANCE REQUIREMENTS.** Whenever insurance is required by a Section of this Chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Clerk/Treasurer a policy or certificate of public

liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be cancelled or terminated without thirty (30) days written notice served upon the City Clerk/Treasurer. Cancellation or termination of such coverage shall be grounds for license revocation.

**6-1-12: LICENSE DENIAL AND FIXING RATES – HEARING.**

- A. Right to Deny. The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this Chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of such business in making such determination. Provided, however, that before making such determination, the Council shall hold a public hearing thereon pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.
- B. Rates. Where, under specific provisions of this Chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.
- C. Hearing. Any applicant or licensee under this Chapter who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefore. Notice of time, place and purpose of such hearing shall be given to such persons and by such means as the Council may determine in calling the hearing.

**6-1-13: WORKER'S COMPENSATION.** No license shall be issued under this Chapter by the City until the applicant presents acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes by providing the name of the insurance company, the policy number, and dates of coverage, or the permit to self-insure.

Effective Date: 06-01-1990



## SECTION 2

### AMUSEMENT DEVICES

#### SECTION:

- 6-2-1: Definitions
- 6-2-2: License Required
- 6-2-3: Exception
- 6-2-4: Unlawful Use and Devices

**6-2-1: DEFINITIONS.** The following terms, as used in this Section, shall have the meanings stated:

- A. “Game of Skill” – Any device excepting pool and billiard tables, bowling alleys and shooting games, but including miniatures thereof, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, which is available to be played by the public generally at a price paid either directly or indirectly for such privilege.
- B. “Coin amusement” – Any machine which upon the inserting of a coin, token, or slug, operates or may be operated and is available to the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.
- C. “Video Game” – Any electrical device which displays objects on a screen and upon insertion of a coin, token or slug may be played by the public generally for entertainment or amusement.
- D. “Amusement device” – includes a game of skill, a coin amusement, or a video game, as defined in this Subdivision, or any combination thereof.
- E. “Distributor” – The person who places amusement devices on premises not owned by him or under his control, which devices may be played by the public generally for a price paid either directly or indirectly.
- F. “Arcade” – A contiguous area which more than six (6) amusement devices are kept for use by the public generally.

**6-2-2: LICENSE REQUIRED.** It is unlawful for any person to have upon premises owned or controlled by him (1) any amusement device, or (2) operate an arcade, without a license therefore from the City. It is unlawful for any person to be a distributor without a license therefore from the City.



**6-2-3: EXCEPTION.** This Section shall not apply to video games of chance licensed by the State.

**6-2-4: UNLAWFUL USE AND DEVICES.** It is unlawful for any person to: (1) sell or maintain a machine or device which is for gambling or contains an automatic pay-off device; (2) give any price, award, merchandise, gift, or thing of value to any person on account of operation of such device; (3) sell or maintain, or permit to be operated in his place of business, any amusement device equipped with an automatic pay-off device; (4) equip any amusement device with an automatic pay-off device; or (5) permit the playing of coin amusement machines between the hours of 1:00 AM and 6:00 AM of any day.

## SECTION 3

### DANCES

#### SECTION:

- 6-3-1: Definitions
- 6-3-2: License Required
- 6-3-3: License Fee
- 6-3-4: Application and License
- 6-3-5: Dance Regulations

**6-3-1: DEFINITIONS.** As used in this Section, the following words and terms shall have the meanings stated:

A. "Public Dance" means any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, which fee may be in the form of a club membership, or payment of money directly or indirectly.

B. "Public Dancing Place" means any room, place or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing.

**6-3-2: LICENSE REQUIRED.** It is unlawful for any person to operate a public dancing place, or hold a public dance, without a license therefore from the City.

**6-3-3: LICENSE FEE.** The license fee shall be in accordance with City's Fee Schedule, and shall include all cost associated with the issuance of the license and site inspection.

#### **6-3-4: APPLICATION AND LICENSE.**

A. A verified application for a dance license shall be filed with the City and shall specify the names and addresses of the person, persons, committee or organization that is to hold the dance, time and place thereof, and the area of the dance floor.

B. All applications shall be accompanied by affidavits of two residents showing that the applicant is of good character and reputation in the community in which he lives, that he has not been convicted of a felony, gross misdemeanor, or violation of any public dance laws within the past five years. No license shall be issued to any person who has been so convicted.

C. No license shall be granted by the Council for any place having so-called "private apartments" or "private rooms" furnished or used for any purposes other than legitimate

business purpose which adjoins such dancing place, or which may be reached by stairs, elevators, or passageway leading from such dancing place. Nor shall a license be granted for any place which is not properly ventilated and equipped with necessary toilets, washroom or lighting facilities.

D. Applications may be referred by the Council to the Chief of Police for investigation and report prior to being acted upon by the Council.

E. The Council shall act upon all dance license applications at a regular or special meeting thereof, whether or not it is included in the call or agenda of the meeting.

F. The licensee shall employ, at his own expense, such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons in attendance at the Public Dancing Place and for the preservation of order and protection of property in and around the Public Dance site. Security personnel shall be present during the entire time said dance is being held and until all patrons have vacated the property, including parking lots owned by licensee. It should be noted that any public safety incidents that occur during the event may be used by the City Council in the determination to approve or disapprove any future licenses under this Section.

G. The dance license shall be posted in the public dancing place and shall state the name of the licensee, the amount paid therefore, and the time and place licensed. The license shall also state that the licensee is responsible for the manner of conducting the dance.

H. No license shall be issued to any applicant under the age of eighteen (18) years.

#### **6-3-5: DANCE REGULATIONS.**

A. Obscenity and Immorality Prohibited. It is unlawful for any person to dance, for a licensee to permit or suffer any person to dance at any public dance in an indecent or immodest manner. It is also unlawful for any person at a public dance to speak in a rude, boisterous, obscene, or indecent manner for any licensee to suffer or permit any person so to act or speak in any public dancing place.

B. Illumination. Every public dancing place shall be brightly illuminated while in public use, and dancing therein while the lights are extinguished, timed or turned so low as to give imperfect illumination is prohibited.

C. Certain Persons Prohibited. No Licensee shall permit any person under the age of eighteen (18) years, unless said person is accompanied by his parent or guardian, to remain in a public dancing place. Nor shall any licensee permit any intoxicated person, or other person who persists in violating the law, to be or remain in the public dancing place.

D. Hours of Dancing. No public dance shall be held on Sunday between the hours of midnight. and noon. No public dance shall be held on any day between the hours of midnight and 6:00 am. (Ord 214, SS 03/21/16 Effective Date 04/25/16)



## SECTION 4

### TOBACCO

(Ord 55, SS, 11-16-2009)

(Ord 216, SS, 03-21-2016)

#### SECTION:

- 6-4-1: Purpose
- 6-4-2: Definitions and Interpretations
- 6-4-3: License
- 6-4-4: Fees
- 6-4-5: Basis for Denial of License
- 6-4-6: Prohibited Sales
- 6-4-7: Vending Machines
- 6-4-8: Self-Service Sales
- 6-4-9: Responsibility
- 6-4-10: Compliance Checks and Inspections
- 6-4-11: Other Illegal Acts
- 6-4-12: Violations
- 6-4-13: Penalties
- 6-4-14: Exceptions and Defenses
- 6-4-15: Severability and Savings Clause

**6-4-1: PURPOSE.** Because the City recognizes that many persons under the age of eighteen (18) years purchase or otherwise obtain, possess and use tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices and such sales, possession, and use are violations of both State and Federal laws; and because studies, which the City hereby accepts and adopts, have show that most smokers begin smoking before they have reached eighteen (18) years and that those persons who reach the age of eighteen (18) years without having started smoking are less likely to be smoking; and because smoking has been show to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery 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, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery 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.

**6-4-2: 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:

- A. 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.
- B. Tobacco Related Devices. “Tobacco related devices” shall mean any tobacco products as well as a pipe, rolling papers, or other device intentionally designated or intended to be used in a manner which enables the chewing, sniffing, or smoking or tobacco or tobacco products.
- C. Self-Service Merchandising. “Self-Service Merchandising” shall mean open displays of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices, without the assistance or intervention of the licensee or the licensee’s employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco related device electronic delivery device, or nicotine or lobelia delivery device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.
- D. Vending Machine. “Vending Machine” shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery 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.
- E. 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 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.

- F. Loosies. “Loosies” shall mean the common term used to refer to a single or individual packaged cigarette.
- G. Minor. “Minor” shall mean any natural person who has not yet reached the age of eighteen (18) years.
- H. Retail Establishment. “Retail Establishment” shall mean any place of business where tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.
- I. Moveable Place of Business. “Movable 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.
- J. Sale. A “Sale” shall mean any transfer of goods for money, trade, barter, or other consideration.
- K. Compliance Checks. “Compliance Checks” shall mean the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance checks shall also means the use of minors who attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices.
- L. Nicotine or Lobelia Delivery Devices. “Nicotine or Lobelia Delivery Devices” shall mean any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.
- M. Electronic Delivery Device: “Electronic delivery devices” are products containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of such a product whether or not sold separately. Electronic delivery device does not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal use in tobacco cessation treatment for other



medical purposes, and is being marketed and sold solely for that approved purpose.

**6-4-3: LICENSE.** No person shall sell or offer to sell any tobacco, tobacco products, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery device without first having obtained a license to do so from the City.

- A. Application. An application for a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery 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 addresses and telephone numbers, the name of business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Clerk 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.
- B. 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 Clerk 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.
- C. Term. All licenses under this ordinance shall be valid for one calendar year from the date of issue.
- D. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.
- E. Transfers. All licenses issued under this ordinance 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.
- F. Moveable Place of Business. No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.
- G. Display. All licenses shall be posted and displayed in plain view of the general public of the licensed premises.

- H. Renewals. The renewal of a license under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the application and shall not entitle the holder to an automatic renewal of the license.

**6-4-4: FEES.** No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be set by resolution by the Council.

**6-4-5: BASIS FOR DENIAL OR LICENSE.** The following shall be grounds for denying the issuance or renewal of a license under this ordinance; 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 eighteen (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, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices.
- C. The applicant has had a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery 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.

**6-4-6: PROHIBITED SALES.** It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device:

- A. To any person under the age of eighteen (18) years.
- B. By means of any type of vending machine, except as may otherwise be provided in this ordinance.

- C. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device between the licensee or the licensee's employee, and the customer.
- D. By means of loosies as defined in Section 6-4-2.F of this Code.
- E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances naturally found in tobacco or added as part of an otherwise lawful manufacturing process.
- F. By any other means to any other person, or in any other manner or form prohibited by Federal, State, or local law, ordinance provision, or other regulation.
- G. It is unlawful for any licensee, or any officer, associate, member, representative, agent, or employee of such licensee, to engage, employ or permit any person under the age of eighteen (18) years of age to sell tobacco products, electronic delivery devices, or nicotine or lobelia delivery devices in any licensed premises.
- H. It shall be a violation of this ordinance to sell any liquid, whether or not such liquid contains nicotine that is intended for human consumption and use in an electronic delivery device that is not contained in packaging that is child-resistant. Upon request, a licensee shall provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

**6-4-7: VENDING MACHINES.** It shall be unlawful for any person licensed under this ordinance to allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

**6-4-8: SELF-SERVICE SALES.** It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices shall either be stored behind the counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco,

tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices at the time of this ordinance is adopted shall comply with this Section within 30 days following the effective date of this ordinance.

**6-4-9: RESPONSIBILITY.** All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery 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 Ordinance, State or Federal law, or other applicable law or regulation.

**6-4-10: COMPLIANCE CHECKS AND INSPECTIONS.** All licensed premises shall be open to inspection by the City police and other authorized city officials during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years. To enter the licensed premise to attempt to purchase tobacco, tobacco products tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices. Minors used for the purpose of compliance checks shall be supervised by the City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as part of the compliance check. No minor used in compliance check shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in compliance checks shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for education, research, or training purposes, or required for the enforcement of a particular State or Federal law.

**6-4-11: OTHER ILLEGAL ACTS.** Unless otherwise provided, the following acts shall be a violation of this ordinance.

- A. **Illegal Sales.** It shall be a violation of this ordinance for any person to sell or otherwise provide any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device to any minor.
- B. **Illegal Possession.** It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device. This subdivision shall not apply to minors lawfully involved in a compliance check.

- C. **Illegal Use.** It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device. D. It shall be a violation of this ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. 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 product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device. This subdivision shall not apply to minors lawfully involved in a compliance check.
- E. **Use of False Identification.** It shall be a violation of this ordinance for any minor to attempt to disguise his or her true age by the use of a false form of identification, where 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.

#### **6-4-12: VIOLATIONS.**

- A. **Notice.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
- B. **Hearings.** If a person accused of violating this ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.
- C. **Hearing Officer.** The City Council shall serve as the hearing officer. Minors alleged to be in violation may request a hearing with the City Council serving as the hearing officer.
- D. **Decision.** If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 6-4-13 of this Code, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.
- E. **Appeals.** Appeals of any decision made by the hearing officer shall be filed in the district court for the City in which the alleged violation occurred.

- F. Misdemeanor Prosecution. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this ordinance. If the City elects to seek misdemeanor prosecution against an individual in violation of this ordinance, no administrative penalty shall be imposed against that individual.
- G. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
- H. Minors. Minors alleged to be in violation of this ordinance shall be entitled to the same process as other alleged violators. Unless waived, a minor charged under this ordinance shall be entitled to all confidentiality protections under state law including a private hearing to an appropriate hearing officer.

**6-4-13: PENALTIES.**

- A. Licensees. Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$75.00 for a first violation of this ordinance; \$200.00 for a second offense at the same licensed premises within a twenty-four month period; and \$250.00 for a third or subsequent offense at the same location within a twenty-four month period. In addition, after the third offense, the license shall be suspended for not less than seven days.
- B. Other Individuals. Other individuals, other than minors regulated by Subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an administrative fee of \$50.00.
- C. Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices, shall be charged an administration fee of \$25.00 for any violation. In addition, a minor in violation of this section shall be ordered to attend the Anoka County Youth Tobacco Diversion program.

**6-4-14: EXCEPTIONS AND DEFENSES.** Nothing in this ordinance shall prevent the providing of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery 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 ordinance for a person to have reasonably relied on proof of age as described by State law.

**6-4-15: SEVERABILITY AND SAVINGS CLAUSE.** If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

## SECTION 5

### GAMBLING

#### SECTION:

- 6-5-1: Definitions
- 6-5-2: Gambling Forms and Eligibility
- 6-5-3: Gambling Regulations
- 6-5-4: City Approval of Applications
- 6-5-5: Unlawful Act

#### **6-5-1: DEFINITIONS.** The following definitions shall apply to this Section:

- A. “Lawful Gambling” means the operation, conduct or sale of bingo, raffles, paddlewheels, tip boards and pull-tabs for a lawful purpose as herein defined.
- B. “Lawful Purpose” means one or more of the following: (1) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; (2) initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (3) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or (4) imposed by the State or the United States on receipts from lawful gambling. “Lawful Purpose” does not include the erection, acquisition, improvement, expansion, repair or maintenance of any real property, owned or lease by the organization, unless the Board specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in (1) through (3) above.
- C. “Organization” means any fraternal, religious, veterans or other non-profit organization located in the City.
- D. “Profit” means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for gambling supplies and equipment, prizes, rent and utilities used during the gambling occasions, compensation paid to members for conducting gambling, taxes imposed by statute and maintenance of devices used in lawful gambling.
- E. “Board” means the Charitable Gambling Control Board.



**6-5-2: GAMBLING FORMS AND ELIGIBILITY.** All forms of legal gambling may be carried on, but only by an organization, and subject to the provisions of this Section and Minnesota Statutes, Section 349.11, Et. Seq.

**6-5-3: GAMBLING REGULATIONS.**

- A. Premises. If the organization owns or leases property for organizational activities, which may or may not include lawful gambling activities, a majority in value of such real property shall be situated within the City. If the organization owns or leases no real property except that it leases space on real property for lawful gambling activities only, such premises shall be licensed under City Code, Chapter 5 for on-sale of liquor. If the organization carries on lawful gambling upon leased premises, such lease shall be in writing and for a term of at least one (1) year, and the rental payments shall not be based upon a percentage of receipts or profits from such gambling.
- B. Contribution Toward City Fund. Ten percent (10%) of the net profits from lawful gambling within the City by the organization must be paid on a monthly basis to a fund administered and regulated by the City. Net profits are defined in Minn. Stat. Sec. 349.213, Subd. 1(e). (Ord 175, SS, 10/7/12)
- C. Expenditures. All one hundred percent (100%) gross profits from the premises of each licensed organization conducting lawful gambling within St. Francis must be expended for lawful purposes conducted within the City's trade area. The City's trade area shall be defined as the City of St. Francis and each City and Township contiguous to St. Francis. (Ord 175, SS, 10/7/12)
- D. Limitations on Licenses. No organizations shall hold more than one license from the Board which authorizes lawful gambling at more than one location, whether such location be within or without the City.
- E. Special Bingo Regulations. Bingo shall only be conducted by an organization which has been in existence for at least three (3) years, has at least thirty (30) active members, and on premises which it owns.

**6-5-4: CITY APPROVAL OF APPLICATIONS.** Unless it finds that the applicant can or had complied with all of the applicable regulations set forth in Section 6-5-3 of this Code, the Council shall, upon receipt from the Board of a notice of application for issuance or renewal of a license, take action to disapprove the same and inform the Board.

**6-5-5: UNLAWFUL ACT.** It is unlawful for any person to violate this Section.

## SECTION 6

### GARBAGE AND REFUSE HAULERS

#### SECTION:

- 6-6-1: Definitions
- 6-6-2: License Required
- 6-6-3: Exception
- 6-6-4: Hauler Licensee Requirements

**6-6-1: DEFINITIONS.** The following terms, as used in this Section, shall have the meanings stated:

- A. "Garbage" means all putrid wastes, including animal offal and carcasses of dead animals but excluding human excreta, sewage and other water-carried wastes.
- B. "Refuse" means ashes, glass, crockery, cans, paper, boxes, rags and similar non-putrid wastes but excluding sand, earth, brick, stone, concrete, trees, tree branches and wood.

**6-6-2: LICENSE REQUIRED.** It is unlawful for any person to haul garbage or other refuse for hire without a license therefore from the City, or to haul garbage or other refuse from his own residence or business property other than as herein excepted.

**6-6-3: EXCEPTION.** Nothing in this Section shall prevent persons from hauling garbage or other refuse from their own residences or business properties provided the following rules are observed: (1) that all garbage is hauled in containers that are water-tight on all sides and the bottom and with tight-fitting covers on top, (2) that all other refuse is hauled in vehicles with leak-proof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo, and, (3) that all garbage and other refuse shall be dumped or unloaded only at the designated sanitary land-fill.

#### **6-6-4: HAULER LICENSEE REQUIREMENTS.**

- A. Hauler licenses shall be granted only upon the condition that the licensee have water-tight, packer-type vehicles in good condition to prevent loss in transit of liquid or solid cargo, that the vehicle be kept clean and as free from offensive odors as possible and not allowed to stand in any street longer than reasonably necessary to collect garbage or refuse, and that the same be dumped or

unloaded only at the designated sanitary land-fill or RDF plant, and strictly in accordance with regulations relating thereto.

- B. Before a garbage and refuse hauler's license shall be issued, the applicant shall file with the City Clerk/Treasurer evidence that he has provided public liability insurance on all vehicles in at least the sum of \$100,000.00 for the injury of one person, \$300,000.00 for the injury of two or more persons in the same accident, and \$50,000.00 for property damages.
- C. Licensees shall deliver all refuse to the designated sanitary land-fill or RDF plant.
- D. The Council, in the interest of the maintaining healthful and sanitary conditions in the City, hereby reserves the right to specify and assign certain areas to all licensees, and to limit the number of licenses issued.
- E. Each applicant shall file with the City Clerk/Treasurer, before a garbage and refuse hauler's license is issued or renewed, a schedule of proposed rates to be charged by him during the licensed period for which the application is made. The schedule of proposed rates, or a compromise schedule thereof, shall be approved by the Council before granting the license. Nothing herein shall prevent a licensee from petitioning the Council for review of such rates during the licensed period, and the Council may likewise consider such petition and make new rates effective at any time. No licensee shall charge rates in excess of the rates approved by the Council.
- F. All licensees shall comply with all applicable statutes and County ordinances.

## SECTION 7

### KENNELS

#### SECTION:

6-7-1: Kennels

#### **6-7-1: KENNELS.**

- A. Defined. For the purpose of this Section, the term “kennel” means any place, building, tract of land, abode or vehicle, wherein or whereon two or more dogs, over six months of age are kept, kept for sale, or boarded.
- B. License Required. It is unlawful for any person to operate or maintain a kennel without a license therefore from the City.
- C. Exception. Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this Section.
- D. Minimum Land Requirement. Licenses shall only be issued, and kennels maintained, on tracts of land containing at least five contiguous acres.



## SECTION 8

### PAWNBROKERS

#### SECTION:

6-8-1: Pawnbrokers

#### **6-8-1: PAWNBROKERS.**

- A. Defined. The term “pawnbroker” means a person who loans money secured by deposit or pledge of personal property, or who buys personal property on condition of selling the same or returning the same back at a stipulated price.
- B. License Required. It is unlawful for any person to engage in or carry on the business of pawnbroker without a license therefore from the City.
- C. Records.
  - 1. Each person licensed hereunder shall keep a record of each transaction made in the course of his business. Such record shall be in the form prescribed by the Chief of Police and shall, in all instances, be legibly made in ink and be in the English language. The record so kept shall include the following information about each transaction:
    - a. The name, address and date of birth of the person pledging or selling the item.
    - b. The time and date of the transaction.
    - c. A complete description of the item pledged or sold, including all identifying numbers and identifying marks.
    - d. The identification presented of the individual making the pledge or selling the item.
    - e. A description of the person pledging or selling the item.
    - f. The amount of money paid or loaned for the item.
    - g. The signature of the person pledging or selling the item.
    - h. Any other information the Police Chief shall require.

2. The records herein shall be kept available for police inspection at any reasonable time at the licensee's place of business.
- D. Minors. It is unlawful for any pawnbroker to purchase or receive on deposit or pledge any property from any minor person under the age of eighteen years.
- E. Redemption Period. Any person pledging an article shall have ninety (90) days to redeem the same before the pledge becomes forfeitable.
- F. Police Order to Hold Property. Whenever the Chief of Police or any member of the police force designated by the Chief of Police, shall notify any such dealer or dealers not to sell any property so received on deposit or purchased by them, or permit the same to be redeemed, such property shall not be sold or permitted to be redeemed until such time as may be determined by the Chief of Police or member of the police force designated by the Chief of Police so requiring them to be held.
- G. Hours and Days of Operation. It is unlawful for any pawnbroker to receive any property as a purchase or pledge between the hours of 9:00 PM and 7:00 AM on any weekday, nor between the hours of 9:00 PM on Saturday and 7:00 AM on Monday, nor on New Year's Day, the Fourth of July, Thanksgiving Day and Christmas Day.
- H. Report of Stolen or Lost Goods. If any goods, articles, or things shall be advertised in any public newspaper as having been lost or stolen, and such goods, articles or things shall then be, or shall thereafter come into the possession of the licensee, said licensee shall, upon actual notice thereof, notify the Police Department in writing that certain goods, articles or things advertised are in said licensee's possession, and shall not thereafter dispose of the same except upon written authority to do so from the Chief of Police.

## SECTION 9

### SAUNA PARLOR AND MASSAGE PARLOR

#### SECTION:

- 6-9-1: Definitions
- 6-9-2: License Required
- 6-9-3: License Application
- 6-9-4: Restrictions and Regulations
- 6-9-5: Unlawful Acts
- 6-9-6: License Condition and Unlawful Act
- 6-9-7: Exception
- 6-9-8: Resident Manager or Agent
- 6-9-9: Nudity or Obscenity Prohibited

**6-9-1: DEFINITIONS.** As used in this Section, the following words and terms shall have the meanings stated:

- A. "Sauna" means a steam bath used for the purpose of bathing, relaxing, or weight reduction, utilizing steam as the agent therefore.
- B. "Sauna Parlor" means any room or rooms wherein persons may, for a fee or other consideration paid either directly or indirectly, receive a sauna.
- C. "Massage" means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, nurse who works solely under the direction of such person, physical therapist, athletic director and trainer, or beautician and barber who confine their treatment to the scalp, face and neck.
- D. "Massage Parlor" means any room or rooms wherein persons may, for a fee or other consideration paid either directly or indirectly, receive a massage, except that a barber or beauty shop, or an exercise or aerobics studio, may employ not more than one "massage therapist" who is licensed under the provisions or Section 6-10-1 of this Code, without the necessity of obtaining a license for a message parlor hereunder. (Ord 7, SS, 6-3-1991)
- E. "Masseur" means a male person who, for compensation, practices massage.
- F. "Masseuse" means a female person who, for compensation, practices massage.



**6-9-2: LICENSE REQUIRED.** It is unlawful for any person to operate a sauna parlor or a massage parlor without a license therefore from the City. It is unlawful for any person, except those persons exempt under Section 6-9-1.C and 6-9-1.D of this Code, to practice massage in any place except upon licensed premises. (Ord 7, SS, 6-3-1991)

**6-9-3: LICENSE APPLICATION.** All initial applications for licenses to operate sauna parlors or massage parlors shall be accompanied by a non-returnable investigation fee. Applications shall contain the names and addresses of the owners, lessees and operators of the applicant, together with a description and location of the premises. The application shall also include information as to any convictions of any crime or offense committed by the applicant, together with such other information as the Council may require before consideration of the application. All applications by corporations shall include the names and addresses of all persons having a beneficial interest therein. An investigation by the Building Inspector shall be conducted of all premises proposed to be licensed before consideration by the Council. The Police Department shall conduct an investigation of all persons proposed to be licensed before consideration by the Council. All applications shall thereafter be considered by the Council.

**6-9-4: RESTRICTIONS AND REGULATIONS.**

- A. Licenses shall be granted only for operation upon fixed premises which must be located in a commercial or industrial district as established by the zoning laws of the City.
- B. Licenses shall be granted only upon a showing of compliance with all laws of sanitation.
- C. No beer, liquor, narcotic drug or controlled substances, as such terms are defined by State Statutes or the City Code, shall be permitted on licensed premises.
- D. Violation of any law or regulation relating to building, safety or health, shall be grounds for revocation of any license.
- E. There shall be no locks on doors of massage rooms.
- F. Only massage therapists who are licensed by the City shall practice massage.
- G. No sauna or massage parlor shall discriminate between persons on the basis of race, color, creed, sex or national origin or ancestry.

**6-9-5: UNLAWFUL ACTS.**

- A. It is unlawful for any licensee to fail to at all times observe all restrictions, regulations and maintenance requirements contained in this Section.
- B. It is unlawful for any licensee to be open for business between the hours of 8:00 PM and 8:00 AM of any day, or to permit any patron to be present upon licensed premises after 9:00 PM and before 8:00 AM of any day.

**6-9-6: LICENSE CONDITION AND UNLAWFUL ACT.**

- A. All premises licensed under this Section shall at all times be open to inspection by any health or police officer to determine whether or not this Section and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection by such officers and without a warrant for searches and seizures.
- B. It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police or health officer from making such inspection.

**6-9-7: EXCEPTION.** This Section shall not apply to a health care facility (1) owned by a municipal corporation organized under the laws of the State of Minnesota, or (2) owned by the State of Minnesota or any of its agencies, or (3) licensed by the State of Minnesota.

**6-9-8: RESIDENT MANAGER OR AGENT.** Before a license is issued under this Section to an individual who is a non-resident of the State, to more than one individual whether or not they are residents of the State, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the State as its manager or agent. Such resident manager or agent shall, by the terms of his written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceased to be a resident of the State or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.

**6-9-9: NUDITY OR OBSCENITY PROHIBITED.**

- A. Definitions. As used in this Section, the following words and terms shall have the meanings stated:
1. “Nudity” means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.
  2. “Obscene performance” means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.
  3. “Obscenities” means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.
  4. “Sado-masochistic abuse” means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
  5. “Sexual conduct” means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
  6. “Sexual excitement” means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experience of humans engaging in or witnessing sexual conduct or nudity.
- B. Unlawful Act. It is unlawful for any person issued a license provided for in this Section to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.

## SECTION 10

### MASSAGE THERAPIST LICENSE

#### SECTION:

- 6-10-1: Definitions
- 6-10-2: License Required
- 6-10-3: Licensing Requirements
- 6-10-4: Restrictions and Regulations

**6-10-1: DEFINITIONS.** As used in this Section, the following words and terms shall have the meanings stated:

- A. “Massage therapy” means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, licensed nurse, physical therapist, athletic director and trainer, or beautician and barber who confine their treatments to the scalp, face and neck.
- B. “Massage therapist” means a person who, for compensation, practices massage.

**6-10-2: LICENSE REQUIRED.** It is unlawful for any person to practice massage therapy without a license therefore from the City.

#### **6-10-3: LICENSING REQUIREMENTS.**

- A. License Application. All applications for a license to practice as a massage therapist shall be accompanied by a medical certificate from a physician duly licensed to practice medicine in the State of Minnesota stating that the applicant has no communicable disease. All initial applications shall be accompanied by a non-returnable investigation fee. All initial applications shall also be accompanied by front and side view photographs. Applications shall contain such other information as the Council may, from time to time, require. All applicants shall be at least eighteen (18) years of age.
- B. Educational Requirements.
  - 1. Each applicant for a massage therapist license shall furnish the application proof of the following:

- a. A diploma or certificate of graduation from a school approved by the American Massage Therapist Association or similar reputable massage association; or,
  - b. A diploma or certificate, of graduation from a school which is either accredited by a recognized education accrediting association or agency, or is licensed by the State or local government agency having jurisdiction over the school.
- 2. Each applicant shall also furnish proof at the time of application of a minimum of 100 hours successfully completed course work in the following areas:
  - a. The theory and practice of massage, including, but not limited to, Swedish, Esalen, Shiatsu, and or Foot Reflexology techniques; and,
  - b. Anatomy, including, but not limited to, skeletal and muscular structure and organ placement; and,
  - c. Hygiene.

**6-10-4: RESTRICTIONS AND REGULATIONS.**

- A. Whenever a massage is given it shall be required by the massage therapist that the person who is receiving the massage shall have his/her buttocks, anus and genitals covered with an appropriate non-transparent covering.
- B. Any massage therapists performing any massages shall at all times have their anus, buttocks, breasts and genitals covered with a non-transparent material.
- C. All massage therapist licenses shall comply with any and all amendments to this Section. Failure to do so shall be grounds for revocation of any license.

(Ord 54, SS, 7-20-1998)

## SECTION 11

### ADULT ENTERTAINMENT

(Ord 14, SS, 5-4-1992)

#### SECTION:

- 6-11-1: Purpose and Intent
- 6-11-2: First Amendment Rights
- 6-11-3: Definitions
- 6-11-4: Application of this Ordinance
- 6-11-5: Non-Conforming Uses
- 6-11-6: Location
- 6-11-7: Permitted Zoning Districts
- 6-11-8: Hours of Operation
- 6-11-9: Operations
- 6-11-10: Signs
- 6-11-11: Adult Entertainment Uses-Accessory
- 6-11-12: Licenses
- 6-11-13: Separation
- 6-11-14: Effective Date

**6-11-1: PURPOSE AND INTENT.** It is the purpose of this Ordinance to regulate Adult Entertainment Uses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- A. Prevent additional criminal activity within the City;
- B. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
- C. To locate Sexually Oriented Business away from residential areas, schools, churches, and parks and playgrounds;
- D. Prevent Concentration of Adult Entertainment Uses within certain areas of the City.

**6-11-2: FIRST AMENDMENT RIGHTS.** The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market.

**6-11-3: DEFINITIONS.** As used in this Section, the following words and terms shall have the meaning stated:

- A. “Adult Body Painting Studio” means an establishment or business which provides the service of applying of paint or other substance whether transparent or non-transparent to or on the body of a patron when such body is wholly or partially nude in terms of “specified anatomical areas”.
- B. “Adult Bookstore” means a business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, if such shop is not open to the public generally but only one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities”, or “specified anatomical areas”.
- C. “Adult Cabaret” means an establishment which provides dancing or other live entertainment, if such establishment excludes minors by reason of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of “specified sexual activities” or “specified anatomical areas”.
- D. “Adult Companionship Establishment” means an establishment which excludes minors be reason of age, or which provides the service of engaging or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- E. “Adult Entertainment Use” means Adult Bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments.
- F. “Adult Establishment” means a business engaged in any of the following activities which utilizes any of the following business procedures or practices:
  - 1. Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage there either by law or by the operators of such business; or
  - 2. Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting exposing, describing, discussing or relating to “specified sexual activities” or “specified anatomical areas”.

Specifically included in the terms, but without limitation are adult bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, and adult body painting studios.

- G. “Adult Hotel or Motel” means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”.
- H. “Adult Massage Parlor, Health Club” means an establishment which restricts minors by reason of age and which provides the services of a massage, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- I. “Adult Mini-Motion Picture Theatre” means a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors be reason of age or if said material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- J. “Adult Modeling Studio” means an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or display “specified anatomical areas” while being observed painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- K. “Adult Motion Picture Arcade” means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrical, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas”.
- L. “Adult Motion Picture Theatres” means a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual medial material if said business as a prevailing practice excludes minors by reason of age or if said material is distinguished or characterized by emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.



- M. “Adult Novelty Business” means a business which has a principal activity relating to the sale of devices which simulate human genitals or devices which are designated for sexual stimulation.
- N. “Adult Sauna” means a sauna which excludes minors by reason of age or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- O. “Adult Uses – Accessory” means a use, business, or establishment having 10% or less of its stock in trade or floor area located to, or 20% or less of its gross receipts derived from movie rentals, magazine sales, or sales of other merchandise, in which there is an emphasis on “specified sexual activities” or “specified anatomical areas”.
- P. “Church” means a building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and associated accessory uses.
- Q. “School” means a public school as defined in Minnesota Statutes 120.05 or a non-public school or a non-sectarian non-public school as defined in Minnesota Statutes 123.932.
- R. “Specified Anatomical Areas” means the following:
1. Less than completely or opaquely covered human genitals, pubic region, buttock(s), anus, or female breast(s) below a point immediately above the top of the areola; and
  2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- S. “Specified Sexual Activities” means the following:
1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

2. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
  3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
  4. Fondling or touching of nude human genitals, pubic region, buttock(s), or female breast(s); or
  5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons; or
  6. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
  7. Human excretion, urination, menstruation, vaginal or anal irrigation.
- T. "Youth Facility" means a playground, park, public swimming pool, public library, or licensed day care facility.

**6-11-4: APPLICATION OF THIS ORDINANCE.**

- A. Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.
- B. No Sexually Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of St. Francis, the laws of the State of Minnesota, or the United States of America. Nothing in this ordinance shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

**6-11-5: NON-CONFORMING USES.** Sexually Oriented uses which do not conform to the requirements, restrictions and prohibitions of this Ordinance shall be classified as legal non-conforming uses and may continue in operation until December 31, 1993. After December 31, 1993, all non-conforming uses shall be terminated and become illegal unless brought into conformance with this Ordinance. The City shall

attempt to identify all such uses which become classified as non-conforming under the provisions of this Subdivision and shall notify the property owners and operators of such uses in writing of the change in status of such property under this Ordinance. The owner of any property on which a Sexually Oriented is located may apply to the City for an extension of the termination date. The applicant shall have the burden of proving hardship based upon the established termination date. In making its decision, the City may consider any factor relevant to the issue, including but not limited to:

- A. The degree of magnitude of threat to the public health, safety and general welfare posed by the secondary impacts of the non-conforming operation.
- B. The length of time that the Sexually Oriented business has been operating.
- C. The ease by which the property could be converted to a conforming use.
- D. The nature and condition of the improvements on the property.
- E. The value and condition of the improvements on the property.
- F. The amount of the applicant's investment in the business.
- G. The amount of the investment already realized.
- H. The cost of relocating the Sexually Oriented Use.

**6-11-6: LOCATION.** During the term of this Ordinance, not Adult Entertainment Use shall be located less than five hundred (500) feet from any residential zoning district boundary site used for residential purposes and less than one thousand (1,000) feet from any church site, from any school site, or from any youth facility. In addition, no adult entertainment use may be located within one thousand (1,000) feet of another adult entertainment use. For purposes of this Ordinance this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, youth facility site, or another adult entertainment use site to the nearest point of the structure housing the proposed adult entertainment use.

**6-11-7: PERMITTED ZONING DISTRICTS.** Adult Entertainment Uses will be allowed in the Light Industrial District and the General Commercial District after issuance of a Conditional Use Permit. Adult Entertainment Uses will need to comply with all Conditional Use Permit Standards and Site Plan Requirements prior to operation.

**6-11-8: HOURS OF OPERATION.** Adult Entertainment Uses shall be limited to 8:00 AM to 12:00 PM for its hours of operation. A differing time schedule may be approved by the City, if it can be satisfactorily demonstrated by the operator to the City that extended operational hours:

- A. Will not adversely impact or affect uses or activities within one thousand (1,000) feet.
- B. Will not result in increased policing and related service calls.
- C. Are critical to the operation of the business.

**6-11-9: OPERATIONS.** The operation of an Adult Entertainment Use shall comply with the following operational standards:

- A. An establishment operating as an Adult Entertainment Use shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of M.S. Chapter 617 or other applicable Federal or State Statutes or local Ordinances.
- B. All entrances to the business, with the exception of emergency, fire exits which are not usable by patrons to enter the business, shall be visible from a public right-of-way.
- C. The layout of the display area shall be designed so that the management of the establishment 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.
- D. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

**6-11-10: SIGNS.** Signs for Adult Entertainment Uses shall comply with the City's Sign Ordinance, and in addition signs for Adult Entertainment Uses shall not contain representational depictions of an adult nature or graphic descriptions of the adult theme of the operation.

**6-11-11: ADULT ENTERTAINMENT USES-ACCESSORY.** Adult Entertainment Uses – Accessory shall comply with the following regulations:

- A. Comprise no more than ten (10) percent of the floor area of the establishment in which it is located.

- B. Comprise no more than twenty (20) percent of the gross receipts of the entire business operation.
- C. Does not involve or include any activity except the sale or rental of merchandise.
- D. Shall restrict from and prohibit access to minors by the physical separation of such items from areas of general public access:
  - 1. Movie Rental. Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation of the business.
  - 2. Magazines. Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
  - 3. Other Uses. Adult Uses – accessory not specifically cited shall comply with the intent of this Section, subject to the approval of the City Council.
- E. Adult Uses – accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.
- F. Adult Uses – accessory shall be exempt from the Licensing and Conditional Use Permit requirements.

**6-11-12: LICENSES.** All establishments, including any business operating at the time of this Ordinance becomes effective, operating or intending to operate an Adult Entertainment Use, shall apply for and obtain a license with the City of St. Francis.

- A. License Required.
  - 1. A person is in violation of City Code if he/she operates an Adult Entertainment Use without a valid license, issued by the City.
  - 2. An application for a license must be made on a form provided by the City. The application must be accompanied by a Site Plan that is in compliance with the City Code Requirements. The Site Plan shall show the configuration of the premises, including a statement of total floor space occupies by the business.

3. The applicant must be qualified according to the provisions of this Chapter and the premises must be inspected and found to be in compliance with all City Regulations.
4. Applications for license shall be made only on the forms provided by the City. Four (4) complete copies of the application shall be furnished to the office of the City Clerk containing the address and legal description of the property to be used; the names, addresses, phone numbers of the owner, lessee (if any), and the operator or manager; the name address, and phone number of two persons who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's manager's or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place, and nature of such crime or offense including the disposition thereof; the name and addresses of all creditors of the applicant, owner, lessee, or manager in so far as and regarding credit which has been extended for the purposes of constructing, equipping, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.

If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names and addresses of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names and addresses of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.

5. All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having interest in the premise upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition, or maintenance of the enterprise.

B. Issuance of License.

1. The Police Chief shall recommend approval of the issuance of a license by the City to an applicant within forty-five (45) days after receipt of an application unless he/she finds one or more of the following to be true:
  - a. An applicant is under eighteen (18) years of age.
  - b. An applicant or an applicants spouse is overdue in his/her payment to the City, County, or State of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to an Adult Entertainment Use.
  - c. An applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form.
  - d. An applicant or an applicants spouse has been convicted of a violation of a provision of this Chapter, other than the offense of operating an Adult Entertainment Use without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
  - e. An applicant is residing with a person who has been denied a license by the City to operate an Adult Entertainment Use within the preceding twelve (12) months, or residing with a person whose license to operate an Adult Entertainment Use has been revoked within the preceding twelve (12) months.
  - f. The premises to be used the Adult Entertainment Use has not been approved by all City Departments as being in compliance with applicable laws and ordinances; such inspections shall be completed within thirty (30) days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the inspections shall be completed within thirty (30) days from the date the deficiency has been corrected.
  - g. The license fee required by this Chapter has not been paid.
  - h. An applicant has been employed in an Adult Entertainment Use in a managerial capacity within the preceding twelve (12) months and had demonstrated that he/she is unable to operate or manage an Adult Entertainment Use premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

- i. An applicant or applicant's spouse has been convicted of a crime involving any of the following offenses: Any sex crimes as defined by Minnesota State Statute 609.29 through 609.352 inclusive or as defined by any ordinance or statute in conformity therewith;

Any obscenity crime is defined by Minnesota Statute 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith; for which less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

2. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
3. An applicant who has been convicted or whose spouse has been convicted of an offense listed in Section 6-11-12.B.1.i of this Code may qualify for an Adult Entertainment Use license only when the time period required by Section 6-11-12.B.1.i of this Code has elapsed.
4. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Entertainment Use. The license shall be posted in a conspicuous place at or near the entrance to the Adult Entertainment Use so that it may be easily read at any time.
5. The City Council shall act to approve or disapprove the license application within one hundred twenty (120) days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the Council shall act on the application within one hundred twenty (120) days from the date that the deficiency has been corrected.



6. Within ninety (90) days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or City Clerk of the City.
- C. Fees. An initial investigation fee of \$400.00 shall be charged at the time the application is filed; no part of this fee shall be refundable. If after review of the application the license is approved, the license holder shall pay \$400.00 for the initial license and \$4,000.00 per annum each time the license is renewed.
- D. Inspection.
1. An applicant or license shall permit representatives of the police department, Planning Department, Fire Department, and Building Inspection Department, to inspect the premises of an Adult Entertainment Use for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
  2. A person who operates an Adult Entertainment Use or his/her agent or employee commits an offense if he/she refuses to permit a lawful inspection of the premises by a representative of the police department at any time it is occupied or open for business.
  3. The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.
- E. Expiration of License.
1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 6-11-12.A of this Code. Application for renewal should be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the expiration of the license will not be affected.
  2. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.
- F. Suspension.
1. The City may suspend a license for a period not to exceed ninety (90) days if it determines that a licensee or an employee of a license has:

- a. Violated or is not in compliance with any provision of this Chapter.
  - b. Engaged in excessive use of alcoholic beverages while on the Adult Entertainment Use premises.
  - c. Refused to allow an inspection of the Adult Entertainment Use premises as authorized by this Chapter.
  - d. Knowingly permitted any type of gambling by any person on the Adult Entertainment Use premises.
  - e. Demonstrated inability to operate or manage an Adult Entertainment Use in a peaceful or law-abiding manner, thus necessitating action by law enforcement officers.
2. A suspension by the City shall be proceeded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the persons in charge thereof.

G. Revocation.

1. The City may revoke a license if a cause of suspension in Section 6-11-12.F of this Code occurs and the license has been suspended within the preceding twelve (12) months.
2. The City shall revoke a license if it determines that:
  - a. A licensee gave false or misleading information in the material submitted to the City during the application process;
  - b. A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;
  - c. A licensee or employee has knowingly allowed prostitution on the premises;
  - d. A licensee or an employee knowingly operated the Adult Entertainment Use during a period of time when the licensee's license was suspended.
  - e. A licensee has been convicted of an offense listed in Section 6-11-12.B.1.i of this Code of which the time period required in Section 6-11-12.B.1.i of this Code has not elapsed.

- f. On two or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 6-11-12.B.1.i of this Code for which a conviction has been obtained, and the person or persons were employees of the Adult Entertainment Use at the time the offenses were committed.
    - g. A licensee or an employee has knowingly allowed an act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
    - h. A licensee is delinquent in payment to the County or State for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the Adult Entertainment Use.
  - 3. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
  - 4. Section 6-11-2.G.2.g of this Code does not apply to adult motels as a grounds for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view.
  - 5. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Entertainment Use license for one year from the date of revocation became effective. If subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under Section 6-11-12.G.2.e of this Code an applicant may not be granted another license until the appropriate number of years required under Section 6-11-12.B.1.i of this Code has elapsed.
  - 6. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.
- H. **Transfer of License.** A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Entertainment Use under the authority of a license at any place other than the address designated in the application.

**6-11-13: SEPARATION.** Every section, provision, or part of this ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

**6-11-14: EFFECTIVE DATE.** This Ordinance becomes effective thirty (30) days after its passage and publication pursuant to City Charter.



## SECTION 12

### REGULATING THE SALE OF FIREWORKS

#### SECTION:

- 6-12-1: Sale of Fireworks
- 6-12-2: Definition
- 6-12-3: Application
- 6-12-4: Processing Application
- 6-12-5: Conditions of License
- 6-12-6: Restrictions Regarding Operation
- 6-12-7: License Period and License Fee
- 6-12-8: Revocation of License
- 6-12-9: Consumer Use Restrictions

**6-12-1: SALE OF FIREWORKS.** It is unlawful to sell fireworks in the City in violation of Minnesota Statutes 624.20 through 624.25, inclusive, which are adopted by reference. "Legal fireworks" as defined in this Section may, however, be sold upon issuance of and possession of a current license by the City.

**6-12-2: DEFINITION.** For purposes of this Section "legal fireworks" is defined to mean:

*Wire or wood sparklers of not more than one hundred (100) grams of mixture per item, other sparkling items which are non-explosive and non-aerial and contain seventy-five (75) grams or less of chemical mixture per tube or a total of two hundred (200) grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture.*

**6-12-3: APPLICATION.** The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location where fireworks will be sold; the type of legal fireworks to be sold; the estimated quantity of legal fireworks that will be stored on the licensed premises.

**6-12-4: PROCESSING APPLICATION.** The application must be filed with the City Clerk together with the license fee. Following an inspection of the premises proposed to be licensed by the Fire Marshall, the City Council may issue the license if the conditions for the license approval are satisfied and the location is properly zoned.

**6-12-5: CONDITIONS OF LICENSE.** The license shall be issued subject to the following conditions:

- A. The applicant is eighteen (18) years of age.
- B. The license is non-transferable, either to a different person or location.
- C. The licensed premises must be a permanent building equipped with an automatic sprinkler system or comply with National Fire Protection Association Standard 1124 (2003 Edition) as it relates to temporary structures. (Ord 84, SS, 5-5-2005)
- D. The license must be publicly displayed on the licensed premises.
- E. The premises are subject to inspection by City employees including but not limited to agents of the police and fire departments during normal business hours.
- F. The sale of legal fireworks must be allowed by the zoning ordinance and must comply with all zoning ordinance requirements including signs.
- G. The premises must be in compliance with the State Building Code and State Fire Code.

(Ord 84, SS, 5-5-2004)

**6-11-6: RESTRICTIONS REGARDING OPERATION.**

- A. Prohibited Transactions. No permit holder or agent or employee thereof shall sell, distribute or furnish any legal fireworks to a person under the age of eighteen (18) years (as verified by a current, valid driver's license, or a current, valid photo identification card), or to any person who is obviously intoxicated, chemically impaired or incompetent.
- B. Inspection of Items. The permit holder must, at all times during the term of the permit, allow the authorized agents of the fire department and the police department to enter the premises where the permitted business is located, including all display, sale or storage areas during normal business hours, or beyond normal business hours where the inspector determines an emergency situation exists, for the purpose of inspecting such premises and inspecting the items, ware, and merchandise therein for the purpose of verifying compliance with the requirements of this chapter, and any other applicable state and federal regulations. Upon request, the permit holder must provide a test sample to the inspector for the purpose of verifying the chemical content of the merchandise.

- C. Maintenance of Order. Permit holders shall be responsible for the conduct of the business being operated and shall maintain conditions of order.
- D. Smoking Prohibited. Permit holders must strictly prohibit any cigarette, cigar, or pipe smoking in or around the permitted premises and conspicuously post and maintain appropriate “NO SMOKING” signage throughout.
- E. Proper Disposal of Unsold Legal Fireworks. It shall be the responsibility of the permit holder to properly dispose of all unsold legal fireworks. Any consequential cost to the City for disposal of these goods shall be the ultimate responsibility of the permit holder.
- F. Maintenance of Sales and Storage Areas. Any significant deviation, enlargement or alteration from the approved site plan for the sales display and storage areas covered by the permit must be pre-approved in writing by the fire department.
- G. Confiscation and Destruction of Illegal Fireworks. Any authorized agent of the fire department or police department may seize, take, remove or cause to be removed all stocks of fireworks or other combustibles offered or exposed for sale, stored or held in violation of this Chapter or other applicable law. Any consequential cost to the City for disposal of these goods shall be the ultimate responsibility of the permit holder.

**6-12-7: LICENSE PERIOD AND LICENSE FEE.** Licenses shall be issued for a calendar year. The annual license fee will initially be \$50.00 but will thereafter be established in an annual resolution establishing fees for the City of St. Francis. License fees shall not be prorated.

**6-12-8: REVOCATION OF LICENSE.** Following written notice and an opportunity for a hearing, the City Council may revoke a license for violation of this Section or state law concerning the sale, use or possession of fireworks. If a license is revoked, neither the applicant nor the licensed premises may obtain a license for twelve (12) months.

**6-11-9: CONSUMER USE RESTRICTIONS.**

- A. It is unlawful to use, fire or discharge any legal fireworks along the route of and during any parade, or at any place of public assembly, including any event in the City for which a block event permit has been issued.
- B. It is unlawful to throw, toss, shoot, or otherwise launch any legal fireworks at any person, animal, vehicle or other thing or object.



- C. It is unlawful to discharge any legal fireworks within three hundred (300) feet of any building or location at which legal fireworks are sold at retail or otherwise stored for any reason.
- D. It is unlawful for any person under the age of eighteen (18) to possess, use or discharge any legal fireworks unless a responsible adult directly supervises the juvenile.
- E. It is unlawful for any person to use or discharge legal fireworks between the hours of 10:00 PM and 8:00 AM in the City limits.
- F. Legal fireworks may only be discharged in an area with a water source connected to a hose or other acceptable means of extinguishing a fire. (Ord 74, SS, 6-16-2003)

## SECTION 13

### TAXICABS

(Ord 142, SS, 11-16-2009)

#### SECTION:

- 6-13-1: Definitions
- 6-13-2: Operator License Required
- 6-13-3: Taxicab Driver License
- 6-13-4: Exceptions
- 6-13-5: Taxicab Operator Application
- 6-13-6: Taxicab Driver Application
- 6-13-7: Conditions for Taxicab Operator License
- 6-13-8: Conditions for Taxicab Drive License
- 6-13-9: Vehicle Requirement
- 6-13-10: Insurance Required
- 6-13-11: Business Records
- 6-13-12: Rates
- 6-13-13: Suspension or Revocation
- 6-13-14: Transfers
- 6-13-15: Term
- 6-13-16: Renewal
- 6-13-17: Fees

**6-13-1: DEFINITIONS.** The following terms, as used in this Section, shall have the meanings stated:

- A. "Taxicab" shall mean and include any motor vehicle engaged in the carrying of persons for hire, whether over a fixed route or not, and whether the same be operated from a street stand or subject to calls from a garage, or otherwise operated for hire except buses or limousines as herein defined, but the term shall not include vehicles regularly used by undertakers in carrying on their business. Taxi cabs shall not include any vehicle owned and operated by any non-profit agencies, school buses or political subdivision.
- B. "Street" shall mean and include any street, alley, avenue, court, bridge, lane, or public place in the City.
- C. "Taxicab driver" shall mean and include any person who drives a taxicab, whether such person be the owner of such taxicab or be employed by a taxicab owner or operator.

- D. “Operator” shall mean and include any person owning or having control of the use of one (1) or more taxicabs used for hire upon the streets or engaged in the business of operating a taxicab within the City.
- E. “Limousine” shall mean a plain painted, unmarked motor vehicle which carries passengers for hire, driven by a uniformed chauffeur, subject to call only from its own garage or central place of business, and which charges its customers a flat rate by the trip or by the hour, day or longer period of time.

**6-13-2: OPERATOR LICENSE REQUIRED.** No person shall engage in the business of operating one (1) or more taxicabs on the streets in the City of St. Francis without first obtaining a taxicab operator license.

**6-13-3: TAXICAB DRIVER LICENSE.** No person shall drive a taxicab for hire on the streets in the City of St. Francis without first obtaining a taxicab driver license.

**6-13-4: EXCEPTIONS.** Any taxicab currently licensed to operate in any other municipality in this state may carry passengers for hire from a community where it is licensed to any location in the City of St. Francis, but no such taxicab operator/driver may pick up passengers within the City unless there is a valid driver and/or operators license pursuant to this Section.

**6-13-5: TAXICAB OPERATOR APPLICATION.** An application of a new or renewal taxicab operator license shall be submitted to the City Clerk on forms provided by the City. In addition to such information as required by the Clerk, the application shall include the following:

- A. Name, address, date of birth, and telephone number of the applicant.
- B. The number of vehicles to be used as part of the taxicab operation.
- C. The description of the method to be used to distinguish the vehicles as taxicabs operating pursuant to the applicant’s business.
- D. Number of persons, other than the applicant, to be employed, full time or part time, as taxicab drivers.
- E. Personal history and background information regarding the applicant sufficient to address the requirements of this Section.
- F. Evidence to the satisfaction of the City that each of the vehicles to be used in the taxicab operation meet the requirements of this Section.

G. Proof of insurance as required by this Section.

**6-13-6: TAXICAB DRIVER APPLICATION.** An application for a taxicab driver license shall be submitted to the City Clerk on forms provided by the City. In addition to such information as the Clerk may require pursuant to this Section, the application shall include the following:

- A. Name, address, date of birth, and telephone number of the applicant.
- B. Personal history and background information regarding the applicant sufficient to address the requirements this Section.

**6-13-7: CONDITIONS FOR TAXICAB OPERATOR LICENSE.** A new or renewal taxicab operator license shall not be issued to an applicant if any one of the following conditions exists:

- A. The applicant is not the owner or lessee of the vehicles to be used in the taxicab operation.
- B. The applicant is less than eighteen (18) years of age, or, if a corporation, partnership, or association, is not properly chartered or otherwise authorized to conduct business as a taxicab operator under the laws of the State of Minnesota.

**6-13-8: CONDITIONS FOR TAXICAB DRIVER LICENSE.** A new or renewal taxicab driver license shall not be issued to an applicant if any one of the following conditions exists:

- A. The applicant is less than eighteen (18) years of age.
- B. The applicant has been convicted of any one of the following crimes or offenses: murder, criminal vehicular homicide or injury, felony assault, criminal sexual conduct, indecent exposure, felony controlled substance violation, driving under the influence of alcohol or controlled substance, leaving the scene of an accident, or reckless or careless driving, unless the applicant has demonstrated rehabilitation in accordance with Minnesota Statutes §364.03.
- C. The applicant has been convicted of or pled guilty to three motor vehicle moving violations within the immediately preceding twelve (12) months.
- D. The applicant fails to provide any information on the application or provides false or misleading information.

**6-13-9: VEHICLE REQUIREMENT.** Each vehicle used to transport passengers for hire as part of a taxicab operation must meet the following requirements:

- A. Be clearly marked to identify the vehicle as a taxicab for hire and include at least the name and telephone number of the taxicab business or company.
- B. Be equipped with an accurate, operating meter, and with an operating radio, telephone, or similar device.
- C. Have passed a safety and functional inspection conducted by a service station or motor vehicle repair garage acceptable to the City. The City reserves the right to make its own independent examination and inspection of taxicabs as it deems necessary.
- D. Be clean, painted and free of rust or substantial bodily damage. There shall be no loose or hanging metal, body molding, or chrome stripping. The taxicab must be equipped with all required fenders, bumpers, doors, door handles, lights, and turn signals, all of which must be in good working order.
- E. The taxicab must properly display current State of Minnesota motor vehicle registration plates.

**6-13-10: INSURANCE REQUIRED.**

- A. A taxicab operator must maintain a commercial general liability insurance policy issued by an insurance company authorized to do business in the State of Minnesota, and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, the general aggregate limit must not be less than \$2,000,000 and the aggregate limit will apply on a per license year basis. The insurance must cover liability arising from operations of the taxicab business including, but not limited to, personal injuries and advertising injuries. The City must be named as an additional insured under the policy.
- B. A taxicab operator must also maintain automobile liability insurance issued by a company authorized to do business in the State of Minnesota and, if necessary, umbrella liability insurance with a limit of not less than \$1,000,000 for each accident. If such insurance contains a general aggregate limit, the general aggregate limit must not be less than \$2,000,000. Insurance shall cover liability arising out of any incident involving a motor vehicle used as part of the taxicab operation.

- C. A certificate of insurance acceptable to the City shall be filed with the City prior to commencement of operations. The certificate and the required insurance policies shall contain a provision that the coverage afforded under the contract will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the City.

**6-13-11: BUSINESS RECORDS.** A taxicab operator shall maintain, at a minimum, the following records:

- A. Order slips upon which are recorded all trips requested showing the time and place of origin and the destination of each trip. Order slips must be maintained and preserved, in chronological order, in a safe place for at least twelve (12) consecutive months. All order slips shall be available to the City upon demand.
- B. Current business records, including, but not limited to information on all drivers and vehicles, at the operator's designated place of business. Such business records shall be made available for inspection by the City during reasonable business hours.

**6-13-12: RATES.** Each taxicab operated under this Section shall have a rate card setting forth the authorized rates of fare displayed in such a place as to be in view of all passengers.

**6-13-13: SUSPENSION OR REVOCATION.** Any license issued under the provisions of this Section shall be suspended or revoked by the City Council if the licensee has:

- A. Violated any of the provisions of this Section.
- B. Discontinued operations for more than sixty (60) consecutive days.

**6-13-14: TRANSFERS.** Any license issued under this Section is not transferable.

**6-13-15: TERM.** All licenses issued under this ordinance expire on December 31<sup>st</sup> of the year issued.

**6-13-16: RENEWAL.** The renewal of any license under this section shall be handled in the same manner as the original application. The request for renewal shall be made thirty (30) days but no more than sixty (60) days before the expiration of the current license.

**6-13-17: FEES.** The applicant is responsible for the license fee as established by ordinance and any other costs incurred by the City associated with confirming the information requested above.

## CHAPTER 7

### RIGHT-OF-WAY / TRAFFIC / PARKING / STREETS

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## SECTION 1

### GENERAL PROVISIONS

#### SECTION:

- 7-1-1: Definitions
- 7-1-2: Application
- 7-1-3: Emergency Vehicles
- 7-1-4: Violation a Misdemeanor or Petty Misdemeanor
- 7-1-5: Scope and Orders of Officers
- 7-1-6: General Parking and Traffic Control

**7-1-1: DEFINITIONS.** Except as otherwise defined in the City Code, or where the context clearly indicates a contrary intent, the words and terms defined in Minnesota Statutes, Chapter 169, shall be applicable to this Chapter.

**7-1-2: APPLICATION.** The provisions of this Chapter are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

**7-1-3: EMERGENCY VEHICLES.** The provisions of this Chapter shall not apply to vehicles when operated with due regard for safety, under the direction of police officers in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to Fire Department or fire patrol vehicles when traveling in response to a fire alarm, nor to public ambulances when traveling in emergencies. This exemption shall not, however, protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.

**7-1-4: VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

- A. Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an

unattended vehicle, within the immediate preceding twelve (12) month period for the third or subsequent time, he shall be punished as for a misdemeanor.

- B. As to any violation not constituting a misdemeanor under the provisions of Section 7-1-4.A. of this Code, he shall be punished as for a petty misdemeanor.
- C. As to any violation of a provision adopted by reference, he shall be punished as specified in such provision, so adopted.

Source: City Code

Effective Date: 06-01-1990

#### **7-1-5: SCOPE AND ORDERS OF OFFICERS.**

- A. Scope. The provisions of this Chapter relate exclusively to the streets, alleys and private roads in the City, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets, alleys and private roads.
- B. Orders of an Officer. It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any police or peace officer invested by law with authority to direct, control or regulate traffic.

#### **7-1-6: GENERAL PARKING AND TRAFFIC CONTROL.**

- A. Council Action. No devices, sign or signal shall be erected or maintained for traffic or parking control unless the Council shall first have approved and directed the same by resolution, except as otherwise provided in this Section.
- B. Temporary Restrictions. The City, acting through the Chief of Police, may temporarily restrict traffic or parking for any private, public or experimental purpose. It is the duty of the Chief of Police to so restrict traffic or parking when a hazardous condition arises or is observed.
- C. Traffic Restrictions and Prohibitions. It is a misdemeanor for any person to drive a vehicle contrary to lane restrictions or prohibitions painted on any street, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.
- D. Parking Restrictions and Prohibitions. It is unlawful for any person to park a vehicle, except an emergency vehicle, contrary to lane restrictions or prohibitions painted on any curb, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.

- E. Damaging or Moving Markings. It is a misdemeanor for any person to deface, mar, damage, move, remove, or in any way tamper with any structure, work, material, equipment, tools, sign, signal, barricade, fence, painting or appurtenance in any street unless such person has written permission from the City or is an agent, employee or contractor for the City, or other authority having jurisdiction over a particular street, and acting within the authority or scope of a contract with the City or such other authority.



## SECTION 2

### OBSTRUCTIONS AND USAGE

#### SECTION:

- 7-2-1: Ice and Snow on Public Sidewalks
- 7-2-2: Obstructions in Streets
- 7-2-3: Street Openings or Excavations
- 7-2-4: Load Limits
- 7-2-5: Parades
- 7-2-6: Regulation of Grass, Weeds, and Trees
- 7-2-7: Requirement of Sewer and Water Main Service Lateral Installation
- 7-2-8: Vehicle Repair on Street
- 7-2-9: Excessive Vehicle Noise

#### **7-2-1: ICE AND SNOW ON PUBLIC SIDEWALKS.**

- A. Ice and Snow a Nuisance. All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within twenty-four (24) hours after such snow or ice has ceased to be deposited.
- B. City to Remove Snow and Ice. The City may cause to be removed from all public sidewalks, beginning twenty-four (24) hours after snow or ice has ceased to fall, all snow or ice which may be discovered thereon, and it shall keep a record of the cost of such removal and the private property adjacent to which such accumulations were found and removed.
- C. Cost of Removal to be Assessed. The City Clerk/Treasurer shall, upon direction of the Council, and on receipt of the information provided for in the preceding Subdivision, extend the cost of such removal of snow or ice as a special assessment against the lots or parcel of ground abutting on walks which were cleared, and such special assessments shall at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.
- D. Civil Suit for Cost of Removal. The City Clerk/Treasurer shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in Section 7-2-1.B of this Code, the cost of such clearing and the cost and disbursement of a civil action therefore.
- E. City Clerk/Treasurer to Report Sidewalks Cleared. The City Clerk/Treasurer shall present to the Council at its first meeting after snow or ice has been cleared from the sidewalks as provided in Section 7-2-1.B of this Code the report of the

City thereon, and shall request the Council to determine by resolution the manner of collection to be used as provided in Sections 7-2-1.C or 7-2-1.D of this Code.

## **7-2-2: OBSTRUCTIONS IN STREETS.**

- A. Obstructions. It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any street without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.
- B. Fires. It is a misdemeanor for any person to build or maintain a fire upon a street.
- C. Dumping in Streets. It is a misdemeanor for any person to throw or deposit in any street any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other petroleum products, or to empty any water containing any other injurious chemical thereon. It is a violation of this Section to haul any such material, inadequately enclosed or covered, thereby permitting the same to fall upon streets. It is also a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on any street without first having obtained a written permit from the City.
- D. Signs and Other Structures. It is a misdemeanor for any person to place or maintain a sign, advertisement, or other structure in any street without first having obtained a written permit from the Council. In a district zoned for commercial or industrial enterprises special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning and construction provisions of the City Code.
- E. Placing Snow or Ice in a Roadway or on a Sidewalk.
  - 1. It is a misdemeanor for any person, not acting under a specific contract with the City or without special permission from the Maintenance Superintendent, to remove snow or ice from private property and place the same in any roadway or on a sidewalk.
  - 2. Where permission is granted by the Maintenance Superintendent the person to whom such permission is granted shall be initially responsible for payment of all direct or indirect costs of removing the snow or ice from

the street or sidewalk. If not paid, collection shall be a civil action or assessment against the benefited property as any other special assessment.

- F. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.
- G. Condition. Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

**7-2-3: STREET OPENINGS OR EXCAVATIONS.** It is a misdemeanor for any person, except a City employee acting within the course and scope of his employment or a contractor acting within the course and scope of a contract with the City, to make any excavation, opening or tunnel in, over, across or upon a street or other public property without first having obtained a written permit from the City as herein provided.

- A. Application. Application for a permit to make a street excavation shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation, and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the City.
- B. Investigation and Payment of Estimated Costs. Upon receipt of such application, the City Clerk/Treasurer shall cause such investigation to be made as he may deem necessary to determine estimated cost of repair, such as back filling, compacting, resurfacing and replacement, and the conditions as to the time of commencement of work, manner of procedure and time limitation upon such excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of such investigations shall be included in such estimate. Before a permit is issued, the applicant shall deposit with the City either cash or an irrevocable letter of credit in an equal amount to one and one-half times the estimated costs.
- C. Protection of the City and the Public.
  - 1. Non-Completion or Abandonment. Work shall progress expeditiously to completion in accordance with any time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the City may, after six hours notice in writing to the holder of the permit of its intention to do so, correct the work, fill the



excavation and repair the public property, and the cost thereof shall be paid by the person holding the permit.

2. Insurance. Prior to commencement of the work described in the application, the applicant shall furnish the City satisfactory evidence in writing that the applicant will keep in effect public liability insurance of not less than \$100,000.00 for any person, \$300,000.00 for any occurrence and property damage insurance of not less than \$25,000.00, issued by an insurance company authorized to do business in the State of Minnesota on which the City is named as a co-insured.
  3. Indemnification. Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the City harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the City incident to a claim or action brought or commenced by any person arising there from.
  4. All excavations shall be adequately guarded with barricades and lights so as to protect the public from hazard as required by the Minnesota Department of Transportation rules and regulations.
- D. Issuance of Permit. The City Clerk/Treasurer shall issue such permit after (1) compensation of such investigation, (2) submission by the applicant in advance of cash or an irrevocable letter of credit in an amount equal to one and one-half times the estimated costs, (3) agreement by the applicant to the conditions of time and manner as aforesaid; (4) agreement in writing by the applicant to pay all actual cost of repairs over and above such estimate, including cost of such investigation, and, (5) agreement in writing by the applicant to be bound by all of the provisions of this Section.
- E. Repairs. All temporary and permanent repairs, including back-filling, compacting and resurfacing shall be made, or contracted for, by the City in a manner prescribed by the City Clerk/Treasurer and an accurate account of costs thereof shall be kept.
- F. Cost Adjustment. Within sixty (60) days following completion of such permanent repairs the City Clerk/Treasurer shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to such permit holder an itemized statement thereof and claim additional payment from, or make refund (without interest) to, the permit holder, as the case may be.
- G. Alternate Method of Charging. In lieu of the above provisions relating to cost and cost adjustment for street openings, the City may charge on the basis of surface square feet removed, excavated cubic feet, on an established unit price uniformly charged.

**7-2-4: LOAD LIMITS.** The Council, upon the recommendation of the City Engineer, may from time to time impose upon vehicular traffic on any part of all of the streets such load limits as may be necessary or desirable. Such limits, and the specific extent of weight to which loads are limited, shall be clearly and legibly sign-posted thereon. It is a misdemeanor for any person to operate a vehicle on any street in violation of the limitation so posted.

**7-2-5: PARADES.**

- A. Definition. The term “parade” means any movement of vehicles, persons or animals, or any combination thereof, which either moves together and as a body so as to in some way impede or affect the free and unobstructed flow of vehicular or pedestrian traffic, or which moves so that some part thereof is in violation of one or more traffic laws or regulations, if such movement is without a permit hereunder.
- B. Permit Required. It is unlawful to sponsor or participate in a parade for which no permit has been obtained from the City, and it is also unlawful to obtain a parade permit and not conduct the same in accordance with the permit granted by the City. Application for such permit shall be made to the City Clerk/Treasurer at least thirty (30) days in advance of the date on which it is to occur and shall state the sponsoring organization or individual, the route, the length, the estimated time of commencement and termination, the general composition, and such application shall be executed by the individuals applying therefore or the duly authorized agent or representative of the sponsoring organization.
- C. Investigation. The City Clerk/Treasurer shall forthwith refer all applications for parades to the Chief of Police for his consideration which shall take no longer than seven (7) days. If any State trunk highways are in the route the Chief of Police shall make all necessary arrangements with the Minnesota Department of Public Safety for alternate routes or whatever may be necessary. If the Chief of Police finds that such a parade will not cause a hazard to persons or property, and will cause no great inconvenience to the public, and if he is able to make arrangements for necessary direction and control of traffic, he shall endorse his acceptance and return the application to the City Clerk/Treasurer. If the Chief of Police finds the parade described in the application to be a hazard, a substantial inconvenience, or if he is unable to make adequate arrangements for direction or control of traffic, he shall return the same to the City Clerk/Treasurer with his findings.
- D. Council Action. The City Clerk/Treasurer shall refer the application and results of investigation to the Council at its next regular meeting. The Council may either (1) deny the permit, (2) grant the permit, or (3) grant the permit on condition that a date, time or route are acceptable to applicant which differ from such as stated

in the application. Applicant shall have three (3) days within which to communicate his acceptance to the City Clerk/Treasurer.

E. Unlawful Acts.

1. It is unlawful for any person to hamper, obstruct, or impede or interfere with any parade, parade assembly or any person, animal or vehicle participating in the parade.
2. It is unlawful for any person to drive a vehicle between the vehicles or persons comprising a parade when such parade is in motion.
3. It is unlawful for any person to enter into a parade without prior authorization from the parade chairman.

F. Exceptions. This Section shall not apply to (1) funeral processions, or (2) a governmental agency acting within the scope of its functions.

**7-2-6: REGULATION OF GRASS, WEEDS AND TREES.**

- A. City to Control Tree Planting and Landscaping (Standards). The City shall have control and supervision of the placement of Landscaping materials and the planting of shrubs and trees upon, or overhanging, all the streets or other public property. Landscaping materials, include but are not limited to; landscaping timbers, landscaping blocks or bricks, fencing, trees, shrubs, etc. The City may establish and enforce additional uniform standards relating to the kinds and types of trees to be planted and the placement thereof. Such standards shall be kept on file in the office of the City Clerk/Treasurer and may be revised from time to time by action of the Council. (Ord 41, SS, 4-1-1996)
- B. Permit Required. It is a misdemeanor for any person to plant, spray, trim or remove trees or other plants which are upon City property, including rights-of-way, without first procuring from the City a permit in writing to do so.
- C. Duty of Property Owners to Cut Grass and Weeds and Maintain Trees and Shrubs. Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of six (6) inches it shall be prima facie evidence of a failure to comply with this Subdivision. Every owner of property abutting on any street shall, subject to the provisions herein required a permit therefore, trim, cut and otherwise maintain all trees and shrubs from the line of such property nearest to such street to the center of such street.

- D. City May Order Work Done. The City may, in cases of failure to comply with this Section, perform such work with employees of the City, keeping accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.
- E. Assessment. If such maintenance work is performed by the City as set forth in the foregoing Subdivision, the City Clerk/Treasurer shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk/Treasurer shall, at the next regular meeting thereof, present such certificate to the Council and obtain its approval thereof. When such certificate has been approved it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

**7-2-7: REQUIREMENT OF SEWER AND WATER MAIN SERVICE LATERAL INSTALLATION.**

- A. Requirement of Sewer and Water Laterals. No petition for the improvement of a street shall be considered by the Council if such petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along such street will be served by such utilities installed in the street.
- B. Sewer System Service and Water Main Service Laterals. No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.
- C. Waiver. The Council may waive the requirements of this Section only if it finds the effects thereof are burdensome and upon such notice and hearing as the Council may deem necessary or proper.

**7-2-8: VEHICLE REPAIR ON STREET.** It is unlawful for any person to service, repair, assemble, or dismantle any vehicle parked upon a street, or attempt to do so, except to service such vehicle with gasoline or oil or to provide emergency repairs thereon, but in no event for more than twenty-four (24) hours.

**7-2-9: EXCESSIVE VEHICLE NOISE.** (Ord 183, SS, 5-5-13)

- A. Definitions. For the purpose of this ordinance, the following phrases are defined as follows:
  - 1. Engine Retarding Brake. A Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding

brake system which alters the normal compression of the engine and subsequently releases that compression.

2. Abnormal or Excessive Noise. A distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value, (b) noise in excess of that permitted by Minnesota Statutes Section 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order, or (c) noise in excess of that permitted by Minnesota Statutes Section 169.693 and Minnesota Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.
- B. Adoption by Reference. Minnesota Statutes Sections 169.69 and 169.693 (motor vehicle noise limits) and Minnesota Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.
- C. Excessive Vehicle Noise.
1. It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.
  2. It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.
- D. Signing. Signs stating "VEHICLE NOISE LAWS ENFORCED" may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this ordinance, except that no sign stating "VEHICLE NOISE LAWS ENFORCED" shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this ordinance are in full force and effect even if no signs are installed.
- E. Amendments. It is the intention of the City Council that all future amendments to any statutes and rules referenced or adopted by reference in this ordinance are also referenced or adopted by reference as if they had been in existence at the time this ordinance was adopted.
- F. Penalty. Anyone found in violation of this section shall be guilty of a petty misdemeanor.

## SECTION 3

### TRAFFIC

#### SECTION:

- 7-3-1: Highway Traffic Regulation Act Adopted by Reference
- 7-3-2: Motorized Vehicles Prohibited on Sidewalks
- 7-3-3: U-Turns
- 7-3-4: Exhibition Driving
- 7-3-5: Driving Through Private Property to Avoid Traffic Signal
- 7-3-6: Recreational Motor Vehicles (Including Snowmobiles)

#### **7-3-1: HIGHWAY TRAFFIC REGULATION ACT ADOPTED BY REFERENCE.**

Except as otherwise provided in this Chapter, Minnesota Statutes, Chapter 168, Chapter 169 (commonly referred to as the Highway Traffic Regulation Act), Chapter 170 and Chapter 171, and Chapter 327.27 Subd. 2, 2A, as amended from time to time, are incorporated herein and adopted by reference, including the penalty provisions thereof. Any statutory provision which does not proscribe a penalty shall be subject to the penalties described in Section 7-1-4 of this Code. The City Council hereby sets the speed limits in manufactured home parks at fifteen (15) miles per hour. (Ord 47, SS, 7-15-1996; Ord 48, SS, 7-15-1996)

**7-3-2: MOTORIZED VEHICLES PROHIBITED ON SIDEWALKS.** It is unlawful for any person to drive or operate a motorized vehicle, except a wheelchair powered by electricity and occupied by a handicapped person, on any public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing the same for ingress and egress through a curb cut to property lying on the other side thereof.

Source: City Code

Effective Date: 06-01-1990

**7-3-3: U-TURNS.** It is unlawful for any person to operate a motor vehicle by turning so as to proceed in the opposite direction upon any street except at a street intersection, and then only if the street intersection is not sign-posted prohibiting a U-turn or otherwise controlled by a traffic signal; provided, that any person making a permitted U-turn shall yield to right-of-way to all other vehicles.

#### **7-3-4: EXHIBITION DRIVING.**

- A. Prima Facie Evidence. It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.
- B. Unlawful Act. It is a misdemeanor for any person to do any exhibition driving on any street, parking lot, or other public or private property, except when an emergency creates necessity for such operation to prevent injury to persons or damage to property; provided, that this Section shall not apply to driving on a racetrack. For purposes of this Section, a “racetrack” means any track or premises whereon motorized vehicles, horses, dogs, or other animals or fowl legally compete in a race or timed contest for an audience, the member of which have directly or indirectly paid a consideration for admission.

#### **7-3-5: DRIVING THROUGH PRIVATE PROPERTY TO AVOID TRAFFIC SIGNAL.** It is unlawful for any person to avoid obedience to any traffic control device by driving upon or through any private property.

#### **7-3-6: RECREATIONAL MOTOR VEHICLES (INCLUDING SNOWMOBILES).**

- A. Definitions. For the purposes of this Section, the terms defined shall have the meanings given them.
  - 1. “Motorized Bicycle” – A bicycle with fully operable pedals which may be propelled by human power or a motor, or by both, with a motor of a capacity of less than fifty (50) cubic centimeters piston displacement, and a maximum of two break horsepower, which is capable of a maximum speed of not more than thirty (30) miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged.
  - 2. “All-Terrain Vehicle” or “ATV” – Trail bikes, amphibious vehicles and similar devices, other than snowmobiles, used at least partially for travel on natural terrain, but not “special mobile equipment” as defined in M.S.A. 168.011, Subd. 22, which is hereby incorporated herein by reference.
  - 3. “Snowmobile” – A self-propelled vehicle designed for travel on snow or ice or natural terrain steered by wheels, skis or runners.
  - 4. “Recreational Motor Vehicle” – Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational

purposes, including but not limited to a motorized bicycle, all-terrain vehicle, snowmobile, hovercraft, or motor vehicle licensed for highway operation which is being used for off-road recreational purposes.

5. "Owner" – A person, other than a lien holder, having a property interest in, or title to, a recreational motor vehicle, who is entitled to the use or possession thereof.
6. "Operate" – To ride in or on and have control of a recreational motor vehicle.
7. "Operator" – The person who operates or is in actual physical control of a recreational motor vehicle.

B. Recreational Motor Vehicle Operating Restrictions. It is unlawful for any person to operate a recreational motor vehicle as follows:

1. On a public sidewalk or walkway provided or used for pedestrian travel.
2. On private property of another without lawful authority or written permission of the owner or occupant.
3. On any lands owned or occupied by a public body or on frozen waters, including, but not limited to, school grounds, park property, playgrounds, recreational areas, private roads, platted but unimproved roads, utility easements, public trails and golf courses. Provided, however, that the Council may, by resolution, specifically permit use on City property, in which event the shortest route to and from areas so permitted shall be used.
4. While the operator is under the influence of liquor or narcotics, or habit-forming drugs.
5. At a rate of speed greater than reasonable or proper under all of the surrounding circumstances.
6. In a careless, reckless or negligent manner so as to endanger the person or property of another or cause injury or damage thereto.
7. Towing any person or thing on a public street or highway except through the use of a rigid tow bar attached to the rear of an automobile.
8. At a speed greater than 10 miles per hour when within 100 feet of any lakeshore, except in channels, or of a fisherman, ice house, skating rink, or sliding area, nor where the operation would conflict with the lawful use of property or would endanger other persons or property.



9. 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.
10. Chasing, running over, or killing any animal, wild or domestic.
11. During the hours between 11:00 PM of one day and 7:00 AM of the next following on Sundays through Thursdays, and during the hours of 1:00 AM and 7:00 AM on Fridays and Saturdays, except that during such hours a recreational motor vehicle, if otherwise lawfully operated, may be operated on a public street.
12. Except as permitted in Subdivision 4, in the area marked as a restricted area legally described as shown in Exhibit A.

Source: Ordinance 83, SS  
Effective Date: 04-19-2004

C. Owner Responsibility.

1. It is unlawful for the owner of any recreational motor vehicle to permit its operation on private property without the written permission of the owner or occupant, on City property without the written permission of the Council, or on other public property without the written permission of the body in charge thereof.
2. Every person leaving a recreational motor vehicle in a public place shall lock the ignition, remove the key and take the same with him.

D. Additional Snowmobile Operating Regulations.

1. It is unlawful for any person to operate a snowmobile upon the roadway, shoulder or inside bank or slope of any street or highway except as permitted in this Subdivision. Operation in the ditch or on the outside bank within the right-of-way of any street or highway except interstate highways or freeways and excluding the restricted area as noted in Exhibit A, is permitted in conformance with State law and the City Code, unless the roadway directly abuts a public sidewalk or walkway or property used for private purposes. Between the hours of one-half hour after sunset to one-half hour before sunrise, any operation may only be on the right-hand side of such street or highway and in the same direction as the highway traffic on the nearest lane of the roadway adjacent thereto. For local access to trails located outside the City of St. Francis, snowmobiles displaying a City-issued local access sticker may travel on the right hand side of local streets on the paved surface within the curb line for urban streets and between the shoulder points for roads that are not paved or do not have

Insert Exhibit A

curb, or in ditches on a County or State road if available, from the operator's primary place of residence to the nearest trail access outside of St. Francis via the most direct route exclusively within the designated zone including the place of residence. Travel for local access shall be at a rate not to exceed twenty (20) miles per hour. Any return trip must occur in the same manner. Snowmobiles must travel single file in this instance. Snowmobiles may not park in any restricted area except at the owner's premises. Individuals with a local access sticker may not operate their snowmobiles in any restricted area outside their designated zone or in a location that is not the most direct route between residence and trail exclusively within their designated zone. Individuals may not operate on the private property of another without permission within the restricted zone. Individuals may operate on their own private property within the restricted zone subject to all other restrictions in City Code or State law. Notwithstanding any language in Section 7-3-7.D.1 to the contrary, two-way snowmobile operation shall be permitted in the western ditch or on the outside bank within the western right-of-way of State Highway 47 at any time and without a City-issued local access sticker, subject to all other provisions of the City Code or State law, and all conditions imposed by the Commissioner of Transportation or the local road authority. Travel upon any City pathway or sidewalk is strictly prohibited. (Ord. 83, SS, 4-19-2004) (Ord. 135, SS, 11-2-09)

2. A snowmobile may make a direct crossing of a street or highway except an interstate highway or freeway, provided:
  - a. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.
  - b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
  - c. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
  - d. In crossing a divided street or highway, the crossing is made only at an intersection of such street or highway with another public street or highway.
  - e. If the crossing is made between the hours of one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

3. No snowmobile 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.
4. Notwithstanding any prohibition in this Section, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when, and at locations where, snow upon the roadway renders travel by automobile impractical.
5. No person under fourteen (14) years of age shall operate on streets or highways or make a direct crossing of a street or highway as the operator of a snowmobile. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile on streets or highways as permitted under this Section and make a direct crossing thereof only if he has in his immediate possession a valid snowmobile safety certificate issued by the Commissioner of Conservations as provided by Minnesota Statutes 1969, Section 84.86. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this Subparagraph.
6. City Issued Local Access Stickers. St. Francis residents living within the designated zones included in Exhibit A who choose to have local access to trails outside the City of St. Francis shall obtain and display a local access sticker in a highly visible location on both sides of the hood of the snowmobile. Local access stickers shall be obtained from the City on an annual basis and for the fee set by City Council resolution. The City may require each applicant to submit information stating their designated residence for purposes of this Ordinance and the most direct route exclusively within the designated zone including the applicant's place of residence. (Ord 83, SS, 4-19-2004)

Source: City Code

Effective Date: 06-01-1990

- E. Golf Carts. Notwithstanding anything herein to the contrary, a person may operate a Golf Cart on certain designated City streets, subject to the following:
1. For purposes of this subdivision, the term "Golf Cart" shall mean an electric-powered recreational motor vehicle that has four wheels, a speed attainable in one mile of at least twenty (20) miles per hour but not more than twenty-five (25) miles per hour on a paved level surface, is designed for use on golf courses as a means of transporting golfers and golf equipment and is permitted on the Ponds Golf Course.
  2. Golf Carts shall be limited to City streets in an area immediately surrounding the Ponds Golf Course using 237<sup>th</sup> Avenue as the northern

boundary, 230<sup>th</sup> Avenue as the southern boundary, the 2400 block as the eastern boundary, and the 3000 block as the western boundary.

3. St. Francis residents who live within the designated zone must apply for and obtain a permit from the City of St. Francis prior to the operation of a Golf Cart on City streets. The permit application shall include the name and street address of the owner, the vehicle identification number of the Golf Cart, and evidence of liability insurance in amounts required by state law. Permits shall be obtained from the City on an annual basis and for the fee set by City Council resolution. Individuals must comply with all permit requirements and the requirements of this subdivision. The City may revoke any permit for failure to comply with all permit requirements and the requirements of this subdivision.
4. The following rules shall apply at all times a Golf Cart is being operated on a City street:
  - a. Golf Carts may be operated for the sole purpose of traveling to and from the Ponds Golf Course and operators must use the shortest available route to and from the Ponds Golf Course.
  - b. The operator must follow all laws and regulations otherwise applicable to motor vehicles.
  - c. Operators must be age sixteen (16) or older and possess a valid driver's license.
  - d. Golf Carts may only be operated between the hours of sunrise and sunset.
  - e. Golf Carts must display the slow-moving vehicle emblem provided for in Minnesota Statute Section 169.522.
  - f. The operator and all passengers must be seated at all times.
  - g. All items being carried on the Golf Cart must be securely fastened.

Source: Ordinance 119, SS  
Effective Date: 4-21-2008

## SECTION 4

### PARKING

#### SECTION:

- 7-4-1: Presumption
- 7-4-2: General Parking Prohibitions
- 7-4-3: Winter Parking
- 7-4-4: Emergency
- 7-4-5: On-Street Recreational Vehicle Parking
- 7-4-6: Unauthorized Removal
- 7-4-7: Direction to Proceed
- 7-4-8: Parallel Parking
- 7-4-9: Angle Parking
- 7-4-10: Streets Without Curb
- 7-4-11: Parking Hours
- 7-4-12: Truck Parking
- 7-4-13: Impounding and Removing Vehicles
- 7-4-14: Parking for the Purpose of Advertising or Selling Merchandise
- 7-4-15: Physically Handicapped Parking

**7-4-1: PRESUMPTION.** As to any vehicle parking in violation of this Chapter when the driver thereof is not present, it shall be presumed that the owner or lessee of such vehicle parked the same, or that the driver was acting as the agent of the owner or lessee.

**7-4-2: GENERAL PARKING PROHIBITIONS.** It is unlawful for any person to stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a police officer or traffic control device in any of the following places:

- A. On a sidewalk,
- B. In front of a public or private driveway or directly across there from in such a manner as to impede the access to said driveway,
- C. Within an intersection,
- D. Within ten (10) feet of a fire hydrant,
- E. On a crosswalk,

- F. Within twenty (20) feet of a crosswalk at an intersection or within twenty (20) feet of a mid-block crosswalk properly marked,
- G. In a sign-posted fire lane,
- H. Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway,
- I. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the City has indicated different length by signs or markings,
- J. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign-posted,
- K. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic,
- L. On the roadway side of any vehicle stopped or parked at the edge or curb of a street,
- M. Upon any bridge or other elevated structure upon a street,
- N. At any place where official signs prohibit or restrict stopping, parking or both,
- O. In any alley, except for loading or unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises, or,
- P. In any block where fire apparatus has stopped in answer to a fire alarm, or in such a manner as to obstruct fire apparatus which has stopped in answer to a fire alarm.
- Q. Parking on Public Property. Whenever any public school lands or the lands and areas of any public governing body or authority customarily or usually open to traffic by the public are posted by order of the school board or other governing body or authority in control of such lands, then it shall be unlawful to drive, operate, stop, leave standing or park any vehicle on such lands contrary to such posting.

Source: Ordinance 4, SS  
Effective Date: 04-15-1991

#### **7-4-3: WINTER PARKING.**

- A. Winter Parking Restrictions. (Ord. 200, SS, 11-3-14, Effective 12-7-14)
1. During the winter months, commencing on the first day of November of any year, to and including the first day of May of the following year, it is unlawful for any person to stop, park or leave standing a vehicle on any street or highway between the hours of 1:00 AM to 11:00 AM.
  2. Vehicles shall also be removed from any street or highway when the snow depth exceeds two (2) inches until that time that the street has been completely plowed. Snow depth shall be determined by one of the following methods:
    - a. As reported by the National Weather Service.
    - b. As measured and documented by an officer or other duly appointed representative of the City.
- B. Snow Emergency Declaration. Whenever, in the opinion of the Mayor, an emergency exists in the City because of snow, freezing rain, sleet, ice, snow drives, or other natural phenomena, which create or are likely to create hazardous road conditions impeding or likely to impede, the free movement of fire, health, police emergency or other vehicular traffic, or the safety and welfare of the community, the Mayor may declare an emergency to exist for a seventy-two (72) hour period, or for such shorter period if sooner terminated. Notice of such snow emergency shall be given by radio, television or press. Said notice shall specify the hour that said emergency commences and there shall be an interval of at least six (6) hours between the first time that such notice is given and the commencement of such emergency.
- C. Snow Emergency Routes. The Council shall determine by resolution which streets in the City shall be designated as Snow Emergency Routes, and shall direct that signs indicating that parking is prohibited on such streets during a snow emergency be posted on the streets.
- D. Parking During Snow Emergency. During the period of a declared emergency, it is unlawful to park or leave standing any vehicle on any portion of the posted snow emergency streets until they have been cleared. Parking may be resumed on individual streets in this area as soon as the snow has been removed from the streets, except in areas where parking is otherwise prohibited. (Ord. 200, SS, 11-3-14, Effective 12-7-14)



#### **7-4-4: EMERGENCY.**

- A. Definition. For purposes of this Section, the term “emergency” means a condition created on City streets because of the presence of snow, freezing rain, sleet or ice thereon, or other natural phenomenon which create or are likely to create hazardous road conditions or impede or are likely to impede the free movement of fire, health, police, emergency or other vehicular traffic, when the same has been duly declared.
- B. Declaration of an Emergency. Whenever in the discretion of the Mayor, or his designated agent, an emergency exists, he may declare the same and the City Clerk/Treasurer shall cause an announcement thereof to be made over the local news media.
- C. Beginning and Duration of Emergency.
  - 1. The emergency shall begin at the hour specified in the notice and there shall be an interval of at least six (6) hours between the first time that such notice is given and the commencement of such emergency.
  - 2. Once declared, the emergency shall remain in effect for the ensuing seventy-two (72) hours, or for such shorter period if sooner terminated. Provided, that the emergency may, in the same manner, be re-declared for subsequent like periods of time.
- D. Unlawful Act. During an emergency it is unlawful to park or leave standing any vehicle upon a snow emergency route designated and duly sign-posted as such.
- E. Exceptions. This Section shall not apply to (1) persons in charge of wreckers or authorized emergency vehicles while actually servicing mechanical, fire, police or medical emergencies, or (2) any street when it has been fully and completely (curb-to-curb) cleared, sanded, salted, or cleaned.

**7-4-5: ON-STREET RECREATIONAL VEHICLE PARKING.** It is unlawful for any person to leave or park a recreational camping vehicle, utility trailer, or boat (as defined in Section 10-16-5.D) on or within the limits of any street or right-of-way for a continuous period in excess of twenty-four (24) hours. Provided, however, that during such twenty-four (24) hour period, such vehicle shall not be occupied as living quarters. (See also Section 10-16-5.D of the Zoning Ordinance.) (Ord 88, SS, 4-21-2005)

**7-4-6: UNAUTHORIZED REMOVAL.** It is unlawful for any person to move a vehicle not owned, leased or under the control of such person into any prohibited area or away from a curb such distance as is unlawful.

**7-4-7: DIRECTION TO PROCEED.** It is unlawful for any person to stop or park a vehicle on a street when directed or ordered to proceed by any police officer invested by law with authority to direct, control or regulate traffic.

**7-4-8: PARALLEL PARKING.** Except where angle parking is specifically allowed and indicated by curb or street marking or sign-posting, or all or any of them, each vehicle stopped or parked upon a two-way road where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with, and within twelve inches of, the right-hand curb, and, where painted markings appear on the curb or the street, such that upon a one-way roadway all vehicles shall be so parked, except that the left-hand wheels of the vehicle may be parallel with and within twelve inches from the left-hand curb, but the front of the vehicle in any event and with respect to the remainder of the vehicle, shall be in the direction of the flow of traffic upon such one-way street; and it is unlawful to park in violation of this Section.

**7-4-9: ANGLE PARKING.** Where angle parking has been established by Council resolution, and is allowed, as show by curb or street marking or sign-posting, or all or any of them, each vehicle stopped or parked shall be at an angle of approximately 45 to 60 degrees with the front wheel touching the curb and within any parking lines painted on the curb or street, provided that the front wheel not touching the curb shall be the portion of the vehicle furthest in the direction of one-way traffic; and it is unlawful to park in violation of this Section.

**7-4-10: STREETS WITHOUT CURB.** Upon streets not having a curb each vehicle shall be stopped or parked parallel and to the right of the paving, improved or main traveled part of the street; and it is unlawful to park in violation of this Section.

**7-4-11: PARKING HOURS.** Parking on streets shall be limited as follows:

- A. It is unlawful for any person to stop, park or leave standing any vehicle upon any street for a continuous period in excess of twenty-four (24) hours.
- B. The Chief of Police may, when authorized by resolution of the Council, designate certain streets, blocks or portions of streets or blocks as prohibited parking zones, or five-minute, ten-minute, fifteen-minute, thirty-minute, one-hour, two-hour, four-hour, six-hour, eight-hour, morning or afternoon rush hour limited parking zones and shall mark by appropriate signs and zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the sign-posted limitation, or during sign-posted hours of prohibited parking.

**7-4-12: TRUCK PARKING.** It is unlawful to park a truck (other than a truck of twelve thousand (12,000) gross vehicle weight or less), a truck tractor, semi-trailer, bus, construction equipment, construction trailers, or manufactured home within the Urban

Service areas of the City that are zoned and/or used for residential purposes, except for the purpose of loading or unloading the same, and then only during such time as is reasonably necessary for such activity. (Ord 9, SS, 11-4-1991)

**7-4-13: IMPOUNDING AND REMOVING VEHICLES.** When any police officer finds a vehicle standing upon a street or City-owned parking lot in violation of any parking regulation, such officer is hereby authorized to require the driver or other person in charge of such vehicle to remove the same to a position in compliance with this Chapter. When any police officer finds a vehicle unattended upon any street or City-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle and to provide for the removal thereof and to remove the same to a convenient garage or other facility or place of safety; provided, that if any charge shall be placed against such vehicle for cost of removal or storage, or both, by anyone called upon to assist therewith the same shall be paid prior to removal from such place of storage or safekeeping.

**7-4-14: PARKING FOR THE PURPOSE OF ADVERTISING OR SELLING MERCHANDISE.** It is unlawful for any person to park a vehicle on any street or public property for the purpose of advertising such vehicle for sale, for the purpose of advertising for sale or selling merchandise thereon or therein, or advertising any merchandise for sale or for a forthcoming event. It is unlawful to park a vehicle on private property for the purpose of advertising such vehicle for sale unless the owner thereof also owns the private property or holds a license to sell such vehicle. It is unlawful for any one person to park more than one vehicle on private property for the purpose of advertising such vehicle for sale at any one time.

**7-4-15: PHYSICALLY HANDICAPPED PARKING.**

- A. Statutory parking privileges for physically handicapped shall be strictly observed and enforced. Police officers are authorized to tag vehicles on either private or public property in violation of such statutory privileges.
- B. It is unlawful for any person, whether or not physically handicapped, to stop, park, or leave standing, a motor vehicle (1) in a sign-posted fire lane at any time, or (2) in lanes where, and during such hours as, parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.

**7-4-16: VIOLATIONS.** Any violation of this section may result in removal and/or impounding of vehicles as set forth in Section 7-4-13, a citation notifying of a violation as set forth in Section 7-1-4, and/or any other procedure permitted in the City Code. (Ord. 200, SS, 11-3-14, Effective 12-7-14)

## SECTION 5

### RIGHT-OF-WAY MANAGEMENT

#### SECTION:

- 7-5-1: Findings, Purpose, and Intent
- 7-5-2: Election to Manage the Public Rights-of-Way
- 7-5-3: Definitions
- 7-5-4: Administration
- 7-5-5: Registration and Right-of-Way Occupancy
- 7-5-6: Registration Information
- 7-5-7: Permit Requirement
- 7-5-8: Permit Applications
- 7-5-9: Issuance of Permit; Conditions
- 7-5-10: Permit Fees
- 7-5-11: Right-of-Way Patching and Restoration
- 7-5-12: Joint Trench Applications
- 7-5-13: Supplementary Applications
- 7-5-14: Other Obligations
- 7-5-15: Denial of Permit
- 7-5-16: Installation Requirements
- 7-5-17: Inspection
- 7-5-18: Work Done Without a Permit
- 7-5-19: Supplementary Notification
- 7-5-20: Revocation of Permits
- 7-5-21: Mapping Data
- 7-5-22: Location and Relocation of Facilities
- 7-5-23: Pre-Excavation Facilities Location
- 7-5-24: Damage to Other Facilities
- 7-5-25: Right-of-Way Vacation
- 7-5-26: Indemnification and Liability
- 7-5-27: Abandoned and Unusable Facilities
- 7-5-28: Appeal
- 7-5-29: Severability

**7-5-1: FINDINGS, PURPOSE AND INTENT.** To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the City strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. Accordingly, the City hereby enacts this new chapter of this code relating to right-of-way permits and administration. This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.

Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way. This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the “Act”) and the other laws governing applicable rights of the City and users of the right-of-way. This chapter shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the City to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

**7-5-2: ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY.** Pursuant to the authority granted to the City under state and federal statutory, administrative and common law, the City hereby elects, pursuant to Minn. Stat. §237.163, subd. 2(b), to manage rights-of-way within its jurisdiction.

**7-5-3: DEFINITIONS.** The following definitions apply to this chapter of this code. References hereafter to “sections” are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

- A. “Abandoned Facility” means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service.
- B. “Applicant” means any person requesting permission to excavate or obstruct a right-of-way.
- C. “City” means the City of St. Francis, Minnesota. “City” also means its elected officials, officers, employees and agents.
- D. “Commission” means the State Public Utilities Commission.
- E. “Congested Right-of-Way” means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes § 216D.04, subd. 3, over a continuous length in excess of five hundred (500) feet.

- F. “Construction Performance Bond” means any of the following forms of security provided at permittee’s option:
1. Individual project bond;
  2. Cash deposit;
  3. Letter of Credit in a form acceptable to the City;
  4. A blanket bond for projects within the City, or other form of construction bond, for a time specified and in a form acceptable to the City.
- G. “Degradation” means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.
- H. “Degradation Cost” subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration, as determined by the City at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.
- I. “Degradation Fee” means the estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost. This fee is in addition to the permittee’s obligation to fully restore the right-of-way.
- J. “Department” means the department of public works of the City.
- K. “Department Inspector” means any person authorized by the City to carry out inspections related to the provisions of this chapter.
- L. “Director” means the director of the department of public works of the City, or her or his designee.
- M. “Delay Penalty” is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.
- N. “Emergency” means a condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.
- O. “Equipment” means any tangible asset used to install, repair or maintain facilities in any right-of-way.
- P. “Excavate” means to dig into, directionally bore, or in any way remove or physically disturb or penetrate any part of a right-of-way.

- Q. “Facility” or “Facilities” means any tangible asset in the right-of-way required to provide Utility Service.
- R. “Five-year project plan” shows projects adopted by the City for construction within the next five years.
- S. “High Density Corridor” means a designated portion of the public-right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.
- T. “Hole” means an excavation in the pavement, with the excavation having a length less than the width of the pavement.
- U. “Local Representative” means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.
- V. “Management Costs” means the actual costs the City incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and costs of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes Sections 237.162 or 237.163; or any ordinance enacted under those sections, or the City fees and costs related to appeals taken pursuant to this chapter.
- W. “Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right of way.
- X. “Patch” or “Patching” means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the sub-base and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions.
- Y. “Pavement” means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.
- Z. “Permit” has the meaning given “right-of-way permit” in Minnesota Statutes Section 237.162.

- AA. "Permittee" means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this chapter.
- BB. "Person" means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate or political.
- CC. "Probation" means the status of a person that has not complied with the conditions of this chapter. (Note: This paragraph is included as an option for your City.)
- DD. "Probationary Period" means one year from the date that a person has been notified in writing that they have been put on probation. (Note: This paragraph is included as an option for your City.)
- EE. "Public Right-of-Way" means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the City. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service. Public right-of-way includes outlots, parks and drainage and utility easements.
- FF. "Registrant" means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies, or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.
- GG. "Restore" or "Restoration" means the process by which an excavated right-of-way and surrounding area, including pavement, foundation, sidewalk and trail is returned to the same condition and life expectancy that existed before excavation.
- HH. "Restoration Cost" means the amount of money paid to the City by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.
- II. "Right-of-Way User" means (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.
- JJ. "Service" or "Utility Service" includes (1) those services provided by a public utility as defined in Minn. Stat. 21613.02, subd. 4 and 6; (2) services of a



telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the City; (5) services provided by a cooperative electric association organized under Minn. Stat., Chapter 308A; and (6) water, and sewer, including service laterals, steam, cooling or heating services.

- KK. "Service Lateral" means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.
- LL. "Supplementary Application" means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.
- MM. "Temporary Surface" means the compaction of sub-base and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation.
- NN. "Trench" means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.
- OO. "Telecommunication right-of-way user" means a person owning or controlling a facility in the right-of-way, or seeking to own or control a Facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. Sec. 21613.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this chapter.

**7-5-4: ADMINISTRATION.** The director is the principal City official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The director may delegate any or all of the duties hereunder.

**7-5-5: REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.**

- A. Registration. Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease,

sublease or assignment, must register with the City. Registration will consist of providing application information and paying a registration fee.

- B. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the City.
- C. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of City ordinances concerning boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chap. 2161), Gopher One-Call Law.

#### **7-5-6: REGISTRATION INFORMATION.**

- A. Information Required. The information provided to the City at the time of registration shall include, but not be limited to:
  - 1. Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
  - 2. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
  - 3. A certificate of insurance:
    - a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota acceptable to the City; and
    - b. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property; and

- c. Naming the City and its engineering consultants as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages; and
    - d. Requiring that the City be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and
    - e. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage. The limits of the coverage shall not be less than \$1,000,000.00.
  - 4. The City will require a copy of the actual insurance policies.
  - 5. If the person is a corporation, a copy of the certificate is required to be filed under Minn. Stat. 300.06 as recorded and certified to by the Secretary of State.
  - 6. The registrant shall submit a construction performance bond, cash deposit, letter of credit, or blanket bond in the amount of \$10,000.00 to the City of St. Francis. The security is to insure compliance with the approved plan.
  - 7. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.
- B. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the City information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

#### **7-5-7: PERMIT REQUIREMENT.**

- A. Permit Required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the City to do so.
- 1. Permit. A permit is required by a registrant to excavate or directionally bore that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

- B. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.
- C. Delay Penalty. In accordance with Minnesota Rule 7819.1000 subd. 3 and notwithstanding Chapter 7, Section 2 of this Code, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.
- D. Permit Display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

**7-5-8: PERMIT APPLICATIONS.** Application for a permit is made to the City. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

- A. Registration with the City pursuant to this chapter.
- B. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
- C. Payment of money due the City for:
  - 1. permit fees, estimated restoration costs, and other management costs;
  - 2. prior obstructions or excavations;
  - 3. any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the City;
  - 4. franchise fees or other charges, if applicable.
- D. Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least one hundred ten (100) percent of the amount owing.
- E. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional

facilities and the City deems the existing construction performance bond inadequate under applicable standards.

**7-5-9: ISSUANCE OF PERMIT AND CONDITIONS.**

- A. Permit Issuance. If the applicant has satisfied the requirements of this chapter, the City shall issue a permit.
- B. Conditions. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant there under to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

**7-5-10: PERMIT FEES.**

- A. Permit Fee. The City shall establish a Permit fee in an amount sufficient to recover the following costs:
  - 1. The City management costs;
  - 2. Degradation costs, if applicable;
  - 3. City labor and engineering costs.
- B. Payment of Permit Fees. No permit shall be issued without full payment of the permit fees.
- C. Non Refundable. Permit fees that were paid for a permit that the City has revoked for a breach as stated in Section 7-5-20 of this Code are not refundable.
- D. Application to Franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

**7-5-11: RIGHT-OF-WAY PATCHING AND RESTORATION.**

- A. Timing. The work to be done under the permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee.
- B. Patch and Restoration. Permittee shall patch and restore its own work. The City may choose to restore the right-of-way itself if the work is not completed in accordance with the deadlines outlined in the permit.

1. City Restoration. If the City restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with correcting the defective work.
  2. Permittee Restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.
- C. Standards. The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the City and shall comply with Minnesota Rule 7819.1100.
- D. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the City, shall correct all restoration work to the extent necessary, using the method required by the City. Said work shall be completed within five (5) calendar days of the receipt of the notice from the City, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable.
- E. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City at its option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the City may exercise its rights under the construction performance bond.

#### **7-5-12: JOINT TRENCH APPLICATIONS.**

- A. Joint Application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.
- B. Shared Fees. Registrants who apply for permits for the same excavation, which the City does not perform, may share in the payment of the permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.
- C. With City Projects. Registrants who join in a scheduled excavation performed by the City, whether or not it is a joint application by two (2) or more registrants or a single application, are not required to pay the permit fee, but a permit would still be required.

#### **7-5-13: SUPPLEMENTARY APPLICATIONS.**

- A. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.
- B. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date

#### **7-5-14: OTHER OBLIGATIONS.**

- A. Compliance With Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes, Section 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
- B. Prohibited Work. Except in an emergency, and with the approval of the City, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
- C. Interference with Right-of-way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
- D. Trenchless Excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minnesota Statutes,

Chapter 216D and Minnesota Rules Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.

**7-5-15: DENIAL OF PERMIT.** The City may deny a permit for failure to meet the requirements and conditions of this chapter or if work is not completed on a previous permit issued to the same applicant, or if the City determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

**7-5-16: INSTALLATION REQUIREMENTS.** The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, Sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the City in the applicable permits and/or agreements referenced in Section 7-5-20 of this Code.

**7-5-17: INSPECTION.**

- A. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minnesota Rule 7819.1300.
- B. Site Inspection. Permittee shall make the work-site available to the City and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- C. Authority of Director.
  - 1. At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
  - 2. The director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit.



**7-5-18: WORK DONE WITHOUT A PERMIT.**

1. Emergency Situations. Each registrant shall immediately notify the director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One-Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency. If the City becomes aware of an emergency regarding a registrant's facilities, the City will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the City may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.
2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the City code, deposit with the City the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

**7-5-19: SUPPLEMENTARY NOTIFICATION.** If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the City of the accurate information as soon as this information is known.

**7-5-20: REVOCATION OF PERMITS.**

- A. Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:
  1. The violation of any material provision of the right-of-way permit;
  2. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
  3. Any material misrepresentation of fact in the application for a right-of-way permit;

4. The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
  5. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued by the City.
- B. **Written Notice of Breach.** If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the City shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.
- C. **Response to Notice of Breach.** Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. Permittee's failure to so contact the City, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the City, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year.
1. **Cause for Probation.** From time to time, the City may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.
  2. **Automatic Revocation.** If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.
  3. **Reimbursement of City costs.** If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

**7-5-21: MAPPING DATA.**

- A. Information Required. Each registrant and permittee shall provide mapping information required by the City in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the “as-built” location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the City's electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.
- B. Service Laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with Section 7-5-21.B of this Code and with applicable Gopher State One Call law and Minnesota Rules governing service laterals install after December 31, 2005, shall be a condition of any City approval necessary for 1) payments to contractors working on a public improvement project including those under Minnesota Statutes, Chapter 429, and 2) City approval of performance under development agreements, or other subdivision or site plan approval under Minnesota Statutes, Chapter 462. The director shall reasonably determine the appropriate method of providing such information to the City. Failure to provide prompt and accurate information on the service lateral installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

#### **7-5-22: LOCATION AND RELOCATION OF FACILITIES.**

- A. Placement of Facilities. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.
- B. Corridors. The City may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City shall, no

later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

- C. Nuisance. One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.
- D. Limitation of Space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

**7-5-23: PRE-EXCAVATION FACILITIES LOCATION.** In addition to complying with the requirements of Minn. Stat. 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

**7-5-24: DAMAGE TO OTHER FACILITIES.** When the City does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the City shall notify the local representative as early as is reasonably possible. If the registrant does not maintain support or move the facilities a the City request and the City maintain, support or move the facilities, the costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

**7-5-25: RIGHT-OF-WAY VACATION.** Reservation of right. If the City vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

**7-5-26: INDEMNIFICATION AND LIABILITY.** By registering with the City, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the City in accordance with the provisions of Minnesota Rule 7819.1250.

**7-5-27: ABANDONED AND UNUSABLE FACILITIES.**

- A. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.
- B. Removal. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the City.

**7-5-28: APPEAL.** A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, Subd. 6; or (5) disputes a determination of the director regarding Section 7-5-20 of this Code may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

**7-5-29: SEVERABILITY.** If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the City from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

Source: Ordinance 128, SS  
Effective Date: 11-17-2008

**CHAPTER 8**  
**PUBLIC PROTECTION**

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**SECTION 1**  
**GENERAL PROVISIONS**

**SECTION:**

8-1-1: Violation a Misdemeanor

**8-1-1: VIOLATION A MISDEMEANOR.** Every person violated a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise state in specific provisions hereof.





## SECTION 2

### REFUSE, JUNK AND NUISANCES

#### SECTION:

- 8-2-1: General Provisions
- 8-2-2: Abatement of Exterior Public Nuisances and Other Violations
- 8-2-3: Maintenance of Private Property
- 8-2-4: Radio and Television Interference
- 8-2-5: Obstructions to Visibility
- 8-2-6: Public Nuisances
- 8-2-7: Noise Violations

#### **8-2-1: GENERAL PROVISIONS.**

- A. Findings. The Council finds that unregulated deposit and storage of junk and unregulated storage and non-mandatory collection of refuse are not only a potential, but immediate, habitat for rodents, the spread of noxious weeds and other hazardous conditions of decay which are unsanitary, unhealthy, and ecological blight. The Council further finds that such hazardous conditions must not only be halted in the future but also corrected for the present. The Council recognizes that the regulations, prohibitions and remedies provided for herein are bold steps but absolutely essential to the health of the residents and ecology of the community.
- B. Definitions. The following term, as used in this Section, shall have the meanings stated:
  - 1. "Refuse" means and includes all organic and inorganic (1) material resulting from the manufacture, preparation of serving of food or food products; (2) spoiled, decayed or waste food from any source; (3) bottles, cans, glassware, paper or paper products, crockery, ashes, rags and discarded clothing; (4) tree, lawn or bush clippings and weeds; (5) furniture, household furnishings or appliances, or parts or components thereof; or (6) human or household waste of all kinds not included in any other portion of this definition.
  - 2. "Junk" means and includes all (1) unregistered, unlicensed or inoperable (including, but not limited to, the lack of component parts) motor vehicles, motorized vehicles or equipment, bicycles, boats, outboard motors, or trailers, or parts or components thereof; (2) inoperable (including, but not limited to, the lack of component parts) agricultural implements or parts or components thereof, machines and mechanical equipment of all kinds or parts of components thereof, and by-products or waste from

manufacturing operations of all kinds; (3) used lumber or waste demolition; or, (4) felled trees and tree branches that are not immediately processed into lumber, wood for fuel, fence components, or other such ultimate use. (Ord 89, SS, 3-21-2005)

3. "Nuisance" means and includes (1) maintaining or permitting a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; (2) interfering with obstructing or rendering dangerous for passage, any street, public right-of-way or waters used by the public; or (3) any other act or omission declared by law to be a public nuisance. (Ord 89, SS, 3-21-2005)
4. "Residential Premises" means any building consisting of any number of dwelling units, each with individual kitchen facilities, and in the case of multiple dwelling units in such building, each unit shall be considered "residential premises".
5. "Commercial Premises" shall consist of two types: (1) any premises where a commercial, industrial or governmental enterprise of any kind is carried on where food is prepared or served from a central kitchen, including restaurants, clubs, churches, schools and health care facilities; or, (2) any premises where a commercial, industrial or governmental enterprise of any kind is carried on where food is not prepared or served.

C. Refuse Storage.

1. It is unlawful for any person to store refuse on residential or commercial premises, type (2), for a continuous period in excess of seven (7) days.
2. It is unlawful for any person to store refuse on commercial premises, type (1), for a continuous period in excess of ninety-six (96) hours.
3. It is unlawful to store organic refuse unless it is drained, wrapped (in paper or plastic) and placed in an impervious and leak-proof container with a tight-fitting cover.

D. Mandatory Collection of Refuse.

1. It is unlawful for each occupant of residential or commercial (of either type) premises to fail or refuse to subscribe for, receive and pay for (at going rates for the class of service) the refuse collection services of a garbage and refuse hauler licensed by the City.
2. It is unlawful for any person to obstruct a licensed garbage and refuse hauler in the performance of its duties.

3. If any person fails or refuses to comply with Section 8-2-1.E.1 of this Code, the City may, upon fifteen (15) days' notice in writing mailed to the owner of such premises at the address appearing on the tax rolls of the County, and as an additional and not alternate to any other remedy provided herein, subscribe and pay for the services of such hauler and certify all costs to the County Auditor to be spread upon the tax rolls as a special assessment on the subject premises.

E. Junk Storage.

1. It is unlawful to park or store junk on any premises unless it is housed within a completely enclosed building or on duly licensed junk dealer premises.
2. If any person fails or refuses to comply with Subparagraph A of this Subdivision, the City may, upon fifteen (15) days' notice in writing mailed to the owner of such premises at the address appearing on the tax rolls, and as an additional and not alternate to any other remedy provided herein, physically remove the junk, dispose of it as valueless, and certify all costs thereof to the County Auditor to be spread upon the tax rolls as a special assessment on the subject property.

F. Nuisance. It is unlawful for any person to permit or maintain a nuisance upon any premises.

G. Additional Unlawful Acts.

1. It is unlawful for any person to deposit offal or the body of a dead animal in any place other than a sanitary landfill or other facilities approved by statute of the City Code.
2. It is unlawful for any person to store, deposit or dispose of any refuse which is in flames or heated to the point of danger of fire.

H. Exception. This section shall not apply to premises on which only one unlicensed or inoperable motor vehicle is stored.

**8-2-2: ABATEMENT OF EXTERIOR PUBLIC NUISANCES AND OTHER VIOLATIONS.** (Ord 29, 22, 8-15-1994) (Ord 182, SS, 6-9-13)

- A. Purpose. The Council of the City of St. Francis has determined that the health, safety, general welfare, good order and convenience of the public are threatened by certain exterior public nuisances and other such violations on property within

the City limits. It is declared to be the intention of the Council to abate such nuisance, and this Section is enacted for that purpose.

- B. Application. This Section shall apply to the abatement of the refuse, junk, nuisances, and other violations maintained exterior to the principal structure as identified in:
1. Refuse as identified in Section 8-2-1-B-1.
  2. Junk as defined in Section 8-2-1-B-2.
  3. Outside storage of materials and all other materials deemed to create a general public nuisance as described in Section 8-2-1-B-3.
  4. Public nuisances enumerated in Section 8-2-6.
  5. Zoning issues to be remedied by Section 10-3-9-C-3.
- C. Hearing Officer. The position of Hearing Officer is hereby created. The City may contract with third parties for the furnishing of all services and set the rate of compensation therefore. The Hearing Officer shall be an individual trained in law; however, it shall not be required that the Hearing Officer be currently licensed to practice law in the State of Minnesota. The Hearing Officer shall have the following duties:
1. Set dates and hear all contested cases following appeals of order of the City or other duly authorized agents.
  2. Take testimony from all interested parties.
  3. Make complete record of all proceedings including findings of fact and conclusions of law.
  4. Affirm, repeal or modify the order of the City or other duly authorized agents.
- D. Inspection, Investigation and Right of Entry. The City or duly authorized agents shall cause to be inspected all public and private properties within the City which might contain an exterior public nuisance as defined in City Code as often as practicable to determine whether any such conditions exist. The City or duly authorized agents shall also investigate all reports of exterior public nuisances located within the City. The City or other duly authorized agents may enter upon all public and private properties for the purposes of conducting inspections for exterior public nuisances. If the property owner and/or occupants of any property refuses said inspector(s) right of entry for inspection, the City may seek an administrative search warrant or other order of the District Court for said purpose of entry and inspection.
- E. Abatement of Violation. Upon a determination by the City or other duly authorized agent that a violation as identified in Section 8-2-2-B exists on any

public or private property within the City, said official shall order the exterior public nuisance to be abated in accordance with this Section.

F. Procedure for Removal of Violation. Whenever the City or other duly authorized agent finds with reasonable certainty that a violation as identified in Section 8-2-2-B exists on any public or private property in the City, said official shall use the following procedure:

1. Notice. The City or other duly authorized agents shall notify the affected property owner by first class mail that the violation must be abated within a reasonable period of time, not less than twenty (20) days from the date of service of the notice. (Service by mail shall be deemed complete upon mailing.) The order shall set forth the following:
  - a. The specific nature of the violations and requirements for compliance.
  - b. That the property owner may, within twenty (20) days of the date of order, request a hearing before the Hearing Officer and by what procedure such hearing may be requested.
  - c. That failure to abate the violation or request a hearing within the applicable time period will result in summary abatement procedures, and that the cost of abatement will be assessed against the subject property.
2. Hearing. Any property owner who feels aggrieved by an order of the City or other duly authorized agent issued pursuant to this Section may request a hearing before the Hearing Officer. Such request shall be filed in writing with the City within twenty (20) days after the date of service of the notice by the City or other duly authorized agent. The City shall notify the property owner of the date, time, and place of the hearing. The hearing shall be conducted no more than twenty (20) days after the Hearing Officer receives notice of the request, unless a later date is mutually agreed to by the Hearing Officer, the property owner and the City. Both the property owner and the City may appear at the hearing with counsel and may call such witnesses and present such evidence as is determined by the Hearing Officer to be relevant. Within ten (10) days after such hearing, the Hearing Officer shall affirm, repeal, or modify the order of the City or other duly authorized agent. The Hearing Officer's order shall be accompanied by written findings of fact, and may include a finding of fact as to the absence of value of the refuse, junk, or other material to constitute a violation. Any person aggrieved by the decision of the Hearing Officer may appeal that decision to the City Council by filing a notice of such appeal with the City within twenty (20) days of receiving notice of the Hearing Officer's decision. At its next available regular

meeting following the filing of a notice of appeal, the Council shall review the decision and findings of fact of the Hearing Officer and shall affirm, repeal or modify that decision. If the Council affirms the Hearing Officer's decision declaring that an exterior public nuisance exists, the City shall abate the exterior public nuisance after twenty (20) days following the Council's final determination, unless the property owner obtains a court order to the contrary within said twenty (20) days.

3. **Disposition of Property.** The City maintains the right to dispose of all property that it removes from public and private properties through abatement procedures as outlines in this Section. Disposal of property deemed to have value shall occur thirty (30) days after the property is secured, unless the property owner obtains a court order to the contrary and/or pays all costs associated with the removal and storage of said property within said thirty (30) day time period. The City maintains the right to immediately dispose of refuse, junk, or other materials deemed to be without value.
  4. **Assessment.** The City or other duly authorized agent shall keep a record of the costs of abatements done under this Section and shall provide regular reports to the City Clerk or other appropriate officer regarding all work performed for which assessments are to be made, stating and certifying the description of the land, lots or parcels involved and the amount assessable to each. The amounts to be assessed shall include up to an additional twenty-five (25) percent to cover any administrative costs associated with the abatements. On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under the other pertinent statutes, for certification to the County and collection the following year along with current taxes. Such assessment shall be payable in no more than ten (10) equal annual installments, pursuant to Minnesota Statutes, Section 429.01, Subd. 2.
- G. **Severability.** Every sub-section, provision or part of this Section is declared separable from every other sub-section, provision or part to the extent that if any sub-section, provision or part of this Section shall be held to be invalid, such holding shall not invalidate any other sub-section, provision or part thereof.
- H. **Non-exclusiveness.** Nothing in this Section shall be deemed a waiver or limitation of any statutory right and/or power of the City as to hazardous buildings, properties or materials, nor shall this Code Section be deemed to otherwise limit the right and/or power of the City to conduct other administrative and/or regulatory searches and inspections including, but not limited to, health inspections, fire scene and arson inspections and regulated business and

industries inspections, nor shall this Section be deemed to be an exclusive remedy of the City regarding the abatement of exterior public nuisance.

Source: City Code

Effective Date: 06-01-1990

**8-2-3: MAINTENANCE OF PRIVATE PROPERTY.**

- A. It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than six inches; to remove all public health or safety hazards there from; to install or repair water service lines thereon; and to treat or remove insect-infested or diseased trees thereon.
- B. If any such owner or occupant fails to assume the primary responsibility described in Subdivision 1 of this Section, and after notice given by the City Clerk/Treasurer has not within seven days of such notice complied, the City may cause such work to be done and the expense thus incurred shall be a lien upon such real estate. The City Clerk/Treasurer shall certify to the County Auditor of Anoka County a Statement of the Amount of the cost incurred by the City. Such amount together with the interest shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes.

**8-2-4: RADIO AND TELEVISION INTERFERENCE.** It is unlawful for any person to maintain, use or operate any apparatus or device whether electrical, mechanical or of any other type, so as to cause interference with radio or television reception. This Section shall not apply to electro-medical devices provided that they are equipped so far as reasonably possible with apparatus tending to reduce such interference.

**8-2-5: OBSTRUCTIONS TO VISIBILITY.** It is unlawful to erect or maintain any structure or vegetation within a radius of twenty (20) feet from the corner created by the projections of the curb lines at intersecting streets. Trees are not obstructions to vision if branches are trimmed to the trunks and to a height of nine (9) feet above the surface of any street. Nor shall traffic control signs or signals be considered obstructions.

**8-2-6: PUBLIC NUISANCES.** No person shall create, commit, or maintain a public nuisance. No person shall willfully omit or refuse to perform any legal duty in relation to the removal of a public nuisance. No person shall rent or permit to be used any premises, building, or portion thereof, knowing that it is intended to be used for committing or maintaining a public nuisance. No person shall willfully prevent, hinder, oppose, or obstruct a public official in the performance of his duties in carrying out the



provisions of this Section or in removing or abating a public nuisance. Unless otherwise permitted by Code, the following are hereby declared to be public nuisances:

A. The following are hereby declared to be nuisances affecting health:

1. The exposed accumulation of decayed or unwholesome food or vegetable matter.
2. Decayed or unwholesome food offered for sale to the general public.
3. All diseased animals running at large.
4. All ponds or pools of stagnant water not serving a legitimate storm water management function.
5. All ponds or pools of polluted or poisonous water.
6. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death in a manner consistent with Section 8-2-1-G-1 of the City Code.
7. Accumulations of waste, refuse, or other debris.
8. Accumulations of manure outside of a legitimate agricultural function.
9. Privy vaults, garbage cans, and other such waste receptacles 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.
10. All noxious weeds, poisonous vegetation such as poison ivy, and other rank growths of vegetation upon public or private property.
11. Weeds, grass, brush, or plants constituting a fire hazard.
12. Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities.
13. The depositing or accumulation of refuse, sewage, waste, garbage, rubbish, poisonous, or injurious substances at unlicensed or unauthorized properties.
14. The habitation of temporary structures, accessory buildings, vehicles, dwellings with inadequate sanitary facilities, and other such structures unauthorized or inadequate for a residential use.

15. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, animal waste, toxic material, or other such potentially harmful substances.
16. The placement, depositing, or permitting to be deposited in any unsanitary manner on public or private property, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.
17. It is unlawful for any person to discharge to any natural outlet or in any area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of Chapter 3 of the City Code.
18. Any offensive trade or business as defined by statute not operating under local license.

B. The following are hereby declared to be nuisances affecting morals and decency:

1. All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law.
2. Betting, bookmaking, and all apparatus used in those occupations.
3. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.
4. 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.
5. 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.

C. The following are hereby declared to be nuisances affecting peace and safety:

1. All trees, hedges, fences, signs, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection.
2. 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.

3. Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person.
4. All unnecessary and annoying vibrations.
5. 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.
6. Radio aerials or television antennae erected or maintained in a dangerous manner.
7. 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.
8. 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.
9. 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.
10. Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way.
11. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
12. Wastewater cast upon or permitted to flow upon streets or other public properties.
13. 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 safety hazards from such accumulation.
14. 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.
15. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials.

16. 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.
17. The depositing of garbage or refuse on a public right-of-way or on adjacent private property.
18. Reflected glare or light from private exterior lighting exceeding the requirements of Section 10-16-8.
19. Maintaining or permitting the existence of any structure or part of any structure which due to fire, wind, or other natural disaster, physical deterioration, or any other cause, is no longer habitable as a dwelling or is no longer useful for any other purpose for which it may have been intended.
20. The existence of any vacant dwelling, garage, or other building, unless such buildings are kept secured and otherwise protected from unauthorized entry.
21. The accumulation of any piles of wood not neatly stacked or secured in a stable manner.
22. A truck or other vehicle that deposits mud, dirt, sticky substances, litter, or other such material on any street or highway.
23. All other conditions or things that are likely to cause injury to the person or property of another.
24. Causing sand, soil, waste, rubbish, vegetation, or such other materials to be deposited into a storm sewer system. (Ord. 190, Effective 1/18/14)
25. Accessing property through a public right-of-way without the use of driveway in a manner that causes disturbance to the vegetation in the right-of-way and/or erosion. (Ord. 190, Effective 1/18/14)

**8-2-7: NOISE VIOLATIONS.**

- A. Prohibited Noises. The following are declared to be nuisances affecting public health, safety, peace or welfare:
  1. Any distinctly and loudly audible noises 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 is not limited by any specific restrictions provided in this ordinance).

2. All obnoxious noises, motor vehicle or otherwise, in violation of Minnesota Rules, Chapter 7030, as may be amended from time to time, are hereby incorporated into this ordinance by reference.
3. The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.
4. The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle (ATV), snowmobile, or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.
5. Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle.
6. The use or operation, or permitting the use or operation, of any radio receiving set, television set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby.

B. Hourly Restriction of Certain Operations.

1. Domestic Power Equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment, except between the hours of 7:00 AM and 10:00 PM on any weekday or between the hours of 9:00 AM and 9:00 PM on any weekend or holiday. Snow removal equipment is exempt from this provision.
2. Refuse Hauling. No person shall collect or remove garbage or refuse in any residential district, except between the hours of 6:00 AM and 10:00 PM on any weekday or between the hours of 9:00 AM and 9:00 PM on any weekend or holiday.
3. Construction Activities. It is unlawful for any person to engage in or permit construction activities creating audible noise off-site involving the use of hand held tools including but not limited to tools such as hammers, saws, wrecking bars; or electrical, diesel, or gas-powered tools including but not limited to saws, drills, or sanders except between the hours of 7:00 a.m. and 9:00 p.m. on any weekday and Saturday or between the hours of 9:00

a.m. and 8:00 p.m. on any Sunday or holiday. Operations and acts performed exclusively for emergency work to preserve the safety, welfare or public health of the citizens of the city or for emergency work necessary to restore public service or to eliminate a public hazard shall be exempt.

4. Radios, Music Devices, Paging Systems, and the Like. The operation of any device referred to in Section 8-2-5-A-6 of this Ordinance between the hours of 10:00 PM and 7:00 AM in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.
- C. Noise Impact Statements. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. The Council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.



## SECTION 3

### ANIMALS

#### SECTION:

- 8-3-1: Dog Licensing and Regulation
- 8-3-2: Animals and Fowl – Keeping, Transporting, Treatment, Housing
- 8-3-3: Animal Waste
- 8-3-4: Non-Domestic Animals
- 8-3-5: Keeping of Bees

#### **8-3-1: DOG LICENSING AND REGULATION.**

##### A. Definition. For the purpose of this Section:

1. “Owner” means the license holder or any other person or persons, firm, association, or organization or corporation owning, keeping, possessing, having an interest in, having care custody or control of or harboring a dog. Any person keeping or harboring a dog for five (5) consecutive days shall for the purposes of this Section be deemed an owner thereof. (Ord 17, SS, 5-3-1993)
2. “Own” means to have a property interest in, or to, harbor, feed, board, keep or possess.
3. “Dangerous Animal” means a dog which has caused damage to property or injury to a person, or which animal, by its actions, exhibits a propensity for causing imminent danger to persons.
  - a. Without provocation, inflicted substantial bodily harm on a human being on public or private property; (Ord 17, SS, 5-3-1993)
  - b. Killed a domestic animal without provocation while off the owner’s property; or (Ord 17, SS, 5-3-1993)
  - c. Been found to be a potentially dangerous, and after the owner was noticed that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals. (Ord 17, SS, 5-3-1993)
4. “Dog” means both male and female and includes any animal of the dog kind.
5. “Potentially Dangerous Dog” shall mean any dog that:



- a. When unprovoked, inflicts bites on a human or domestic animal on public or private property; (Ord 17, SS, 5-3-1993)
    - b. When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or, (Ord 17, SS, 5-3-1993)
    - c. Has a know propensity, tendency or disposition to attack unprovoked, causing injury, or otherwise threatening the safety of humans or domestic animals. (Ord 17, SS, 5-3-1993)
  - 6. "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 dog. A proper enclosure does not include a porch, patio, or any part of a house, garage or other structure that would allow the dog to exit of its own violation, or any house or structure in which windows are open or in which doors or window screens are the only obstacles that prevent the dog from exiting. (Ord 17, SS, 5-3-1993)
  - 7. "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. (Ord 17, SS, 5-3-1993)
- B. Running at Large Prohibited. It is unlawful for the owner of any dog to permit such animal to run at large. Any dog shall be deemed to be running at large with the permission of the owner if off the property of its owner and not under restraint. For the purposes of this Section, "under restraint" means the animal is controlled by a leash not exceeding six (6) feet in length, or at heel beside a person of suitable age and discretion, and obedient to that person's commands, or effectively confined within a motor vehicle, building or enclosure. A dog shall not be deemed to be running at large if engaged in wild game or animal hunting, or when engaged in obedience training, and under the control of its owner or a responsible person.
- C. License Required and Number of Dogs Restricted.
- 1. Licenses. It is unlawful for the owner of any dog, six (6) months of age or more, to fail to obtain a license therefore from the City. All dogs kept, harbored, or maintained in the City of St. Francis shall be licensed and registered. Applications for licenses shall be made to the City Clerk upon forms provided by the Clerk. Said application shall require the owner, among the other information required by the City Clerk, to supply the

name, age, predominant breed, sex, color and markings of each dog sought to be licensed. In addition, when the applicant or owner has been convicted of a violation to Section 8-3-1.L of this Code relative to the dog sought to be licensed, the application shall require proof of public liability insurance as set forth in Section 8-3-1.S of this Code. Upon submission of the application and a certificate of evidencing compliance with the terms and provisions of the license fee, the City Clerk shall issue a license, which license shall be effective until the next 31<sup>st</sup> day of December of the following year.

2. Number of Dogs Allowed.

- a. The number of dogs permitted shall not exceed three (3) dogs over the age of three (3) months per dwelling unit in the Urban Service Area and on rural parcels less than five (5) acres in size. Properties located within the Urban Service Area of the City shall be limited to a maximum of two (2) dogs housed outside the principal structure. (Ord 17, SS, 5-3-1993; Ord 92, SS, 6-19-2005; Ord 160, SS, 8-10-11)
- b. On parcels five (5) acres or more in size in the Rural Service Area, the number of dogs permitted shall not exceed four (4) dogs over the age of three (3) months per dwelling unit unless in receipt of an interim use permit for a kennel in the A-1, A-2, or A-3 Districts of the Zoning Ordinance. In no instance shall the number of dogs exceed fifteen (15) with the interim use permit. (Ord 160, SS, 8-10-11)

- D. License Issuance, Term and Renewal. Every owner or keeper of a dog shall cause the same to be vaccinated by a licensed veterinarian with anti-rabies vaccine at least once in every twenty-four (24) month period prior to the time such dog shall reach the age of six (6) months and at least once every twenty-four (24) months thereafter. (Ord 17, SS, 5-3-1993)
- E. Adoption of Fees. All fees for the impounding and maintenance of a dog, including penalties for the late application, may be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may from time to time be amended by the Council by Resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk/Treasurer and open to investigation during regular business hours.
- F. Tag Required. All licensed dogs shall wear a collar and have a tag firmly affixed thereto evidencing a current license. Upon application, a duplicate for a lost tag will be issued by the City. Tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of death of the

dog or the owners leaving the City prior to expiration of the license period. (Ord 17, SS, 5-3-1993)

- G. Dog Pound. Any dog found in the City without a license tag, running at large, or otherwise in violation of this Section, shall be placed in the Dog Pound, and an accurate record of the time of such placement shall be kept on each dog. Every dog so placed in the Dog Pound shall be held for redemption under Section 8-3-1.1 of this Code by the owner for at least five (5) regular business days. A "regular business day" is one during which the pound is open for business to the public for at least four (4) hours between 8:00 AM and 7:00 PM. Impoundment records shall be preserved for at least six (6) months and shall show: (1) the description of the dog by specie, breed, sex, approximate age, and other distinguishing traits; (2) the location at which the dog was seized; (3) the date of seizure; (4) the name and address of the person from whom any dog three (3) months of age or over was received; and (5) the name and address of the person to whom any dog three months of age or over was transferred. If unclaimed, such dog shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71. Provided, however, that if a tag affixed to the dog, or a statement by the dog's owner after seizure specifies that the dog should not be used for research, such dog shall not be made available to any such institution but may be destroyed after the expiration of the five (5) day period. (Ord 17, SS, 5-3-1993)
- H. Notice of Impounding. Upon the impounding of any dog, the owner shall be notified by the most expedient means, or if the owner is unknown, written notice shall be posted for five (5) days at the City Hall describing the dog and place and time of taking.
- I. Redemption of Dog Release from Dog Pound. Dogs shall be released to their owners, as follows:
1. If such dog is owned by a resident of the City, after a license is obtained, if unlicensed, and payment of the impounding fee, maintenance, and immunization fee and proof of ownership. (Ord 17, SS, 5-3-1993)
  2. If such dog is owned by a person not a resident of the City, after immunization of any such animal for rabies, and payment of the immunization fee, impounding fee and maintenance. (Ord 17, SS, 5-3-1993)
- J. Seizure by a Citizen. It is lawful for any person to seize and impound a dog so found running at large and shall within six (6) hours thereafter notify the Police Department of said seizure. It shall be the duty of the Police Department to place said dog in the City Pound. If the name of the owner of such dog so seized is

known to the person who first takes such dog into custody, he or she shall inform the Police Department of the name of the owner, and the address if known.

- K. Immobilization of Dogs. For the purpose of enforcement of this Section any peace officer, or person whose duty is animal control, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching a dog.
- L. Disturbing the Peace/Other Unlawful Acts. It is unlawful for the owner of any dog to: (Ord 17, SS, 5-3-1993)
  - 1. Fail to have the license tag issued by the City firmly attached to a collar worn at all times by the licensed dog; or,
  - 2. Own a dangerous dog, or
  - 3. Interfere with any police officer, or other City employee, in the performance of their duty to enforce this Section; or
  - 4. Own, keep, have in possession, or harbor any dog which howls, yelps, or barks to the reasonable annoyance of another person or persons. Any person violating this subdivision, who upon first requested by a police officer or the animal control officer to stop or prevent the annoyance, and refuses to comply with the request will be issued a citation or arrested in accordance with Minnesota Rules of Criminal Procedure, and, if the officer deems it necessary to stop the annoyance, may have the dog taken to the City Dog Pound. Any dog placed in the dog pound may be reclaimed by the owner upon payment of the fee prescribed, and if not reclaimed may be disposed of in the manner provided in this Section. (Ord 17, SS, 5-3-1993)
- M. Rabies Control – Generally.
  - 1. Every Animal which bites a person shall be promptly reported to the Chief of Police and shall thereupon be securely quarantined at the direction of the Chief of Police for a period of fourteen (14) days, and shall not be released from such quarantine except by written permission of the City. In the discretion of the Chief of Police, such quarantine may be on the premises of the owner or at the veterinary hospital of their choice. If the animal is quarantined on the premises of the owner, the City shall have access to the animal at any reasonable time of study and observation of rabies symptoms. In the case of the stray animal or in the case of an animal whose ownership is not known, such quarantine shall be at the animal pound, or at the discretion of the Chief of Police the animal may be confined in a veterinary hospital designated by him. The owner of the

animal shall be responsible for all costs associated with the quarantine of the animal. (Ord 17, SS, 5-3-1993)

2. The owners, upon demand made by the Chief of Police or by any other City Employee empowered by the Council to enforce this Section, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this Section and upon compliance with licensing provisions set forth in this Section.
  3. When an animal under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the City shall immediately send the head of such animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of such examination.
  4. The City shall issue such proclamation and take such action when rabies is suspected or exists as is required by Minnesota Statutes.
- N. Reports of Bite Cases. It is the duty of every physician, or other practitioner, to report to the Chief of Police the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.
- O. Animals in Heat. Except for controlled breeding purposes, every female animal in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female cannot come in contact with other animals.
- P. Nuisances. Keeping, maintaining, or harboring a dog that has been permitted to run loose or has caused damage to or loss of private property belonging to a person other than the thereof and members of the owners household on three (3) or more occasions within a period of twelve (12) consecutive months constitutes a nuisance. The following events shall be considered in determining whether or not there has been a violation of this Section which constitutes a nuisance: (Ord 17, SS, 5-3-1993)
1. Conviction under Section 8.05, Subd. 2, involving the permitting of a dog to run loose. (Ord 17, SS, 5-3-1993)
  2. Payment to a person by or on behalf of the owner for damages to or destruction of private property or for personal injury. (Ord 17, SS, 5-3-1993)

3. An acknowledgement by the owner or keeper of an animal that it has caused such damage or personal injury. (Ord 17, SS, 5-3-1993)
  4. Records of the City of St. Francis or any other City which show impoundment of the dog for the immediate preceding twelve (12) month period. (Ord 17, SS, 5-3-1993)
- Q. Abatement. Such nuisance shall be abated by the owner or keeper of such animal by the disposition of the animal within fourteen (14) days after receipt of notice to the owner or keeper thereof. "Disposition" shall mean the destruction of the animal or its permanent removal from the City. Said notice shall be sent by the Chief of Police or his designate by registered mail. If the owner or keeper of the animal fails to comply within the above-specified period, the animal control office is authorized and directed to capture and immediately dispose of such animal. The owner or keeper of the dog shall immediately make the animal available to the animal control officer. (Ord 17, SS, 5-3-1993)
- R. Appeals. Any owner who feels aggrieved by the order of the Chief of Police may request a hearing before the City Council by filing an appeal with the City Clerk/Treasurer within fourteen (14) days after receipt of the notice. The appeal shall be filed in such form as the City shall provide. On the filing of such appeal, no further action shall be taken until the matter has been heard. Upon receipt of the request, the City Clerk/Treasurer shall place the matter before the Council at its next regular meeting. The owner may appear, with counsel if he/she chooses, and present evidence in opposition to the order. Following such hearing the Council shall make a determination of facts and shall, based upon such determination, affirm, repeal, or modify the Chief's order. The Council shall also establish a date for compliance with the order as affirmed or modified, which date shall be not less than five (5) days thereafter. Upon expiration of the time limit, the animal control officer shall abate the nuisance. (Ord 17, SS, 5-3-1993)
- S. Insurance Required. Evidence of a surety bond issued by a surety company authorized to conduct business in the State of Minnesota in a form acceptable to the City 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 must be filed with the City Clerk each year upon renewal of the dog license in the following instances: (Ord 17, SS, 5-3-1993)
1. Nuisance Abatement. For a period of two (2) years after having been ordered to abate any nuisance pursuant to this Section. (Ord 17, SS, 5-3-1993)

2. Conviction of failure to restrain an attack by a dog pursuant to this Section, where the Court failed to order destruction of the dog. (Ord 17, SS, 5-3-1993)
  3. Where the dog has been declared dangerous pursuant to this chapter. (Ord 17, SS, 5-3-1993)
- T. Failure to Restrain an Attack by an Animal. It shall be unlawful for an owner to fail to restrain an animal from inflicting or attempting to inflict bodily injury to any person or other domestic animal. Violation of this section shall be a misdemeanor. The Court upon a finding of the defendant's guilt hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on written order containing one or more of the following findings of fact: (Ord 17, SS, 5-3-1993)
1. The animal is dangerous as defined in the Subd. 1; or, (Ord 17, SS, 5-3-1993)
  2. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent unprovoked injury to persons or other domestic animals. If the Court does not order the destruction of the dog, the Court shall, as an alternative, order the defendant to provide, and show proof to the Court of insurance as set forth in the Subd. (Ord 17, SS, 5-3-1993)
- U. Destruction of Dangerous Animals. The Chief of Police or his designate shall have authority to order the destruction of dangerous dogs as defined in Section 8-3-1.A of this Code. (Ord 17, SS, 5-3-1993)
- V. Appeals. If an owner requests a hearing within five (5) days of the receipt of the Declaration of Dangerous Dog classification for determination as to the dangerous nature of the dog, the City Clerk/Treasurer shall place the matter before the City Council at its next meeting. Notice of the Declaration of Dangerous Dog classification shall be sent by certified mail or posting of such notice on owner's last known residence if the owner(s) cannot be found. The owner may appear with counsel if he/she chooses, and present evidence in opposition of the designation of the animal as dangerous. Following the hearing, the Council shall make a determination of facts and shall make such order as it deems proper. If such hearing cannot be held within the statutory fourteen (14) days, the owner must either comply with the terms of the Statute Section 347.50-347.54 or keep the dog at a licensed kennel in a confined pen until the hearing is held. If the Declaration of Dangerous Dog is upheld, the dog shall remain at a licensed kennel in a secured, confined pen until the dog is either destroyed or all of the dangerous dog requirements of the state statute and local ordinances are complied with and a license is issued by the City Clerk. If the Council concludes that the dog is dangerous and the owner does not immediately comply with the

requirements of the dangerous dog statute, the Council may order the animal control officer to take the dog into custody for destruction. If the dog is ordered into custody for destruction, the owner shall immediately make the dog available to the animal control officer and failure to do so shall be a misdemeanor. (Ord 17, SS, 5-3-1993; Ord 99-43, 9-7-1999)

- W. Harboring a Dangerous Animal. Any person who harbors an animal after it has been found to be dangerous and ordered into custody for destruction pursuant to this Subd. shall be guilty of a misdemeanor. (Ord 17, SS, 5-3-1993)
- X. Stopping an Attack. If any Police Officer or animal control officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means he/she deems appropriate to bring the attack to an end and prevent further injury to the victim. (Ord 17, SS, 5-3-1993)
- Y. Removal of Excrement. It is unlawful for any person who owns or had custody of a dog to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property unless such person immediately removed the excrement and places it in a proper receptacle. The provisions of this Section shall not apply to seeing-eye dogs under control of a blind person or dogs while being used in City Police activity. (Ord 17, SS, 5-3-1993)
- Z. Animal Control Officer. There is hereby established the position of Animal Control Officer. He/She shall be appointed by the City Council. Nothing contained herein shall prevent the City Council from contracting with a person to provide such services. (Ord 17, SS, 5-3-1993)
- AA. Duties of Animal Control Officer. The Animal Control Officer shall perform the following duties: (Ord 17, SS, 5-3-1993)
  - 1. Capture , seize and deliver to any designated pound any dog found: running at large within the City; unlicensed; or not wearing the metal tag provided for in this chapter. (Ord 17, SS, 5-3-1993)
  - 2. Pick-up and dispose of the carcasses of every dead animal. (Ord 17, SS, 5-3-1993)
  - 3. Investigate all cases of animal bites reported to him/her and supervise the quarantine of any such animal to assure that it is kept under observation for a period of ten (10) days. (Ord 17, SS, 5-3-1993)
  - 4. Investigate all reports of dangerous or potentially dangerous dogs referred to him/her, complete the dangerous/potentially dangerous animal form and refer the same to the County Auditor, report to the Chief of Police weekly



on the activities of the Animal Control Officer within the City. (Ord 17, SS, 5-3-1993)

- BB. No Interference with Officer. It shall be unlawful for any person to molest or in any way interfere with any peace officer, animal control officer, or any of their duly authorized assistants, or with any duly authorized agent while engaged in performing work under the provisions of this chapter. (Ord 17, SS, 5-3-1993)

**8-3-2: ANIMALS AND FOWL – KEEPING, TRANSPORTING, TREATMENT, HOUSING.**

- A. It is unlawful for any person to keep, stable, board, or harbor horses, colts, ponies, mules, goats, sheep, cattle, pigs, and other farm-type animals, mink, chickens, ducks, pigeons, geese, and other fowl, whether owned or not, unless the person has sufficient contiguous real estate to house and enclose said animals or fowl.
- B. All points of housing and fence enclosures in which animals or fowl are kept must be at least one hundred (100) feet from any residential structure used for human habitation or well. (Ord 86, SS, 6-7-2004)
- C. A sturdy wood, metal or electrical fence must keep the animals and/or fowl confined.
- D. No above mentioned animals or fowl may be kept on a parcel of real estate smaller in area than five (5) acres, except for the keeping of pigeons and doves as specified in Section 8-3-1.E of this Code. In determining such real estate parcel size and number of animals or fowl, one (1) acre thereof shall be considered as being used for residence, lawns, etc., and shall be excluded. The area used for the on-site sewage treatment system, including the alternate drainfield location, shall not be used to keep animals. In addition to the above minimum area requirements, at least one (1) acre of pasture must be available for one animal other than fowl and at least one (1) acre for each additional animal other than fowl kept on the premises. (Ord 86, SS, 6-7-2004)
- E. No more than twenty fowl of any type may be kept on such five (5) acre parcels with one (1) acre additional required for each additional ten fowl. The keeping of racing and fancy pigeons/doves shall be permitted on parcels of land as small as two and one-half (2½) acres in size in the rural service area of the City. The keeping of pigeons and doves for competitive racing and sporting purposes shall be limited to a maximum of one hundred fifty (150) birds. (Ord 86, SS, 6-7-2004)
- F. Pasture fences or animal or fowl enclosures must be at least ten (10) feet inside the property lines unless fences on the line are agreed to in writing by adjoining

property owner or owners. Such line fence agreement must be renewed in writing when a new adjoining owner takes over.

- G. Animal and fowl manure and other waste shall not be allowed to accumulate to create offensive odors. Accumulations of manure and other waste shall be removed at such periods as will insure that no objectionable aroma exists and the premises shall not be allowed to become unsightly or harbor rodents, flies, or insects.
- H. Farms as defined in the City Code are exempt from the provisions of this Section.
- I. Properties that do not conform with this Section shall be considered as non-conforming uses. Non-conforming uses shall be brought into compliance with this Section within five (5) years from the effective date of this and the above Subdivisions; however, this provision shall only apply to real estate area, and number of animals, and location of fences and enclosures, and shall in no way allow any change or any increase in such prior use, and upon death or disposition of any animals or fowl so held under prior use, same shall not be replaced; and any discontinuance of such prior use for a period of one month longer shall be deemed a cessation of such use and a use thereafter shall be completely controlled by all of the provisions of this Section. (Ord 86, SS, 6-7-2004)
- J. It is unlawful for any person to violate any provisions of this Section. (Ord 21, 10-1-1967)
- K. It is unlawful for any person to treat any animal as herein defined, or any other animal, in a cruel or inhumane manner.
- L. It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies or insects.
- M. It is unlawful for any person to allow any animal, as herein defined, or any other animal under his control, to run at large. (Ord 86, SS, 6-7-2004)

### **8-3-3: ANIMAL WASTE.**

- A. Definitions. For the purpose of this Section:
  - 1. "Owner" means any person who harbors, feeds, boards, possesses, keeps or has custody of an animal.
  - 2. "Animal" means a dog, cat or other animal.
- B. Unlawful Acts. It is unlawful for any owner to:

1. Suffer or permit an animal to defecate upon public property, or the private property of another, without immediately removing the excrement and disposing of it in a sanitary manner.
2. Suffer or permit an animal to be upon public property, or the private property of another, unless such animal is in the custody of a person of suitable age and discretion having in his/her possession equipment and supplies for excrement removal.
3. Permit animal excrement to accumulate for a period in excess of seven (7) days on premises occupied by him/her without removal and sanitary disposal.

**8-3-4: NON-DOMESTIC ANIMALS.** (Ord 93, SS, 9-19-2005)

- A. Non-domestic animals shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:
1. Any member of the large cat family (family felidae) including but not limited to; lions, tigers, cougars, lynx, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
  2. Any naturally wild member of the canine family (family canidae) including but not limited to; wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
  3. Any cross breed such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
  4. Any member or relative of the rodent family including but not limited to; any skunk (whether or not de-scented), raccoon, squirrel, or prairie dog, but excluding those members otherwise defined or commonly accepted as domesticated pets.
  5. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including but not limited to; rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
  6. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart.

- B. Animals such as Bears, Elk, Caribou, and Buffalo may be permitted within the City upon the issuance of a Conditional Use Permit. A Conditional Use Permit for keeping the above described animals shall not be considered on properties of less than five (5) acres in size.
- C. It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits. Any owner of such an animal at the time of adoption of this Code shall have thirty days in which to remove the animal from the City after which time the City may impound the animal as provided for in this Section.
- D. An exception shall be made to the prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific laboratory, educational facilities, or a licensed show or exhibition.
- E. Impounding. Any unlicensed animal running at large is hereby declared a public nuisance. Any police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. In the case the owner is unknown, the officer shall post notice at the City office that if the dog or other animal is not claimed within the time specified, it will be sold or otherwise disposed of. Except as otherwise provided in this Section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal including dogs and cats running at large.
- F. Animals Presenting a Danger to Health and Safety of the City. If the reasonable belief of any person or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the officer may destroy the animal in a proper and humane manner. Otherwise the person or officer may apprehend the animal and deliver it to the pound for confinement under §100.05. If the animal is destroyed, the City shall charge the animal owner for the actual cost of disposing of the animal. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with §100.05, Subd. 3.

**8-3-5: KEEPING OF BEES:** (Ord 173, SS, 10/7/12)

- A. Bees shall not be kept on parcels smaller than five (5) acres in size.
- B. No parcel shall have more than one hive or colony housing structure not to exceed three (3) feet in size in any dimension unless it is an agricultural use.
- C. All hives shall be of the removable frame type.
- D. All hives shall be kept one hundred (100) feet from any property line.

## SECTION 4

### CRIMES AND OFFENSES

#### SECTION:

- 8-4-1: Maintenance of Individual Sewage Systems
- 8-4-2: Unlawful Use and Furnishing of Tobacco
- 8-4-3: Dangerous Weapons and Articles
- 8-4-4: Dangerous Trespasses and Other Acts
- 8-4-5: Disorderly Conduct
- 8-4-6: Curfew
- 8-4-7: Solicitors
- 8-4-8: Abandoning a Motor Vehicle
- 8-4-9: Loitering

**8-4-1: MAINTENANCE OF INDIVIDUAL SEWAGE SYSTEMS.** It is unlawful for the owner or tenant of any premises to permit an individual sewage disposal system to overflow, or expose the contents thereof above ground.

**8-4-2: UNLAWFUL USE AND FURNISHING OF TOBACCO.**

- A. It is unlawful for any person, under the age of eighteen (18) years, to use tobacco in any form.
- B. It is unlawful for any person to furnish tobacco, by any manner or means and in any form, to any person under the age of eighteen (18) years.

**8-4-3: DANGEROUS WEAPONS AND ARTICLES.**

- A. Acts Prohibited. It is unlawful for any person to:
  - 1. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,
  - 2. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,
  - 3. Manufacture or sell any unlawful purpose weapon known as a slung-shot or sand club; or,
  - 4. Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,

5. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,
  6. Sell or have in his possession any device designed to silence or muffle the discharge of a firearm; or,
  7. Permit, as a parent or guardian, any child under fourteen (14) years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive; or,
  8. Furnish a minor under eighteen (18) years of age with a firearm, air gun, ammunition, or explosive without the written consent of his parent or guardian or of the Police Department.
  9. Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star, nun chuck, sharp stud or splat gun. For the purpose of this Subparagraph, (1) a "throwing star" means a circular metallic devise with any number of points projecting from the edge, (2) a "nun chuck" means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod, (3) a "sharp stud" means a circular piece of metal attached to a wrist band, glove, belt or other material which protrudes one-fourth inch, or more, from the material to which it is attached, and with the protruding portion pyramidal in shape, sharp or pointed, and (4) a "splat gun" means a weapon which, by means of compressed air or gas, emits a projectile containing paint or other substances.
- B. Exception. Nothing in Section 8-4-3.A of this Code shall prohibit the possession of the articles herein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.
- C. Discharge of Firearms and Explosives. It is unlawful for any person to fire or discharge, within the area served by any City utility, any cannon, gun, pistol or other firearm, firecracker, sky rocket or other fireworks, air gun, air rifle, or other similar device commonly referred to as a B-B gun, or within five hundred (500) feet of a residence in the rest of the City. (Ord 75, SS, 6-16-2003)
- D. Exception. Nothing in Section 8-4-3.C of this Code shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of his duty, or to a person in the lawful defense of his person or family. This Section shall not apply to the discharge of firearms in a range authorized in writing by the Council.
- E. Exposure of Unused Container. It is unlawful for any person being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or

other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges or latches.

- F. Use of Bow and Arrow. It is unlawful for any person to shoot a bow and arrow within the area served by any City utility, except in the Physical Education Program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council, or within five hundred (500) feet of a residence in the rest of the City.

**8-4-4: DANGEROUS TRESPASSES AND OTHER ACTS.** It is unlawful for any person to:

- A. Smoke in the presence of explosives, or inflammable materials, or in a building, or area, in which "No Smoking" notices have been prominently posted; or,
- B. Interfere with or obstruct the prevention or extinguishing of any fire, or disobey the lawful orders of a law enforcement officer or fireman present at the fire; or,
- C. Show a false light or signal or interfere with any light, signal or sign controlling or guiding traffic upon a highway, railway track, or navigable water; or,
- D. Place an obstruction upon a railroad track; or,
- E. Expose another or his property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest or coerce; or,
- F. Trespass or permit animals under his/her control to trespass upon a railroad track; or,
- G. Permit domestic animals or fowls under his/her control to go upon the lands of another within the City; or,
- H. Interfere unlawfully with any monument, sign or pointer erected or marked to designate a point of a boundary, line or political subdivision, or a tract of land; or,
- I. Trespass upon the premises of another, and without claim of right refuse to depart there from on demand of the lawful possessor; or,
- J. Occupy or enter the dwelling of another, without claim of right, or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation; or,



- K. Enter the premises of another with the intent to take or injure any fruit, fruit trees or vegetables growing thereon without the permission of the owner or occupant; or,
- L. Without the permission of the owner tamper with or get into or upon a motor vehicle, or ride in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner.

**8-4-5: DISORDERLY CONDUCT.** It is unlawful for any person, in a public or private place, knowing, or having reasonable grounds to know, that it will or will tend to, alarm, anger or disturb others or provoke any assault or breach of the peace, to do the following:

- 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 tending reasonably to arouse alarm, anger or resentment in others; or,
- D. Willfully and lewdly expose his/her person or the private parts thereof, or procure another to so expose himself; and any open or gross or lewdness or lascivious behavior, or any act of public indecency; or,
- E. Voluntarily enter the waters of any river or public swimming pool without being garbed in a bathing suit sufficient to cover his person and equal to the standards generally adopted and accepted by the public; or,
- F. Urinate or defecate in a place other than (a) if on public property then in a plumbing fixture provided for that purpose, or (b) if on the private property of another then in a plumbing fixture provided for that purpose, or (c) if on private property not owned or controlled by another, then within a building; or,
- G. Cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn; or,
- H. Use a sound amplifier upon streets and public property without prior written permission from the City; or,
- I. Use a flash or spotlight in a manner so as to annoy or endanger others; or.
- J. Cause defacement, destruction, or otherwise damage to any premises or any property located thereon; or,

- K. Strew, scatter, litter, throw, dispose of or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for such purpose; or,
- L. Enter any motor vehicle of another without the consent of the owner or operator; or,
- M. Fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of this premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of his/her official duty, nor shall it include the spouse, children, employee or tenant of such owner or occupier.

**8-4-6: CURFEW.**

- A. Definition. As used in this Section “minor” means a person under the age of eighteen (18) years.
- B. Unlawful Acts. (Ord 53, SS, 7-6-1998)
  - 1. It is unlawful for any person under the age of twelve (12) years to be or loiter upon the streets or public places between the hours of 9:00 PM on any Sunday, Monday, Tuesday, Wednesday or Thursday and 5:00 AM of the following day or between the hours of 10:00 PM on any Friday or Saturday and 5:00 AM of the following day.
  - 2. It is unlawful for any person twelve (12) to fourteen (14) years of age to be present upon the streets or public places between the hours of 10:00 PM on any Sunday, Monday, Tuesday, Wednesday or Thursday and 5:00 AM of the following day or between the hours of 11:00 PM on any Saturday or Sunday and 4:00 AM of the following day.
  - 3. It is unlawful for any person over the age of fourteen (14) but under the age of eighteen (18) to be present upon the streets or public places between the hours of 11:00 PM on any Sunday, Monday, Tuesday, Wednesday or Thursday and 5:00 AM of the following day or any time between 12:01 AM and 5:00 AM on any Saturday or Sunday.
  - 4. It is unlawful for any person operating, or in charge of, any place of amusement, entertainment or refreshment, or other place of business to allow or permit any minor to be or loiter in such place in violation of this Section unless such minor is accompanied by a person of lawful age having such minor in charge. Thus subparagraph shall not be construed

to permit the presence, at any time, of any person under age in any place where his presence is otherwise prohibited by law.

- C. Exceptions. Such curfew shall not apply to any minor student who is lawfully attending, going or returning from school, church or community sponsored athletic, musical or social activities or events.

#### **8-4-7: SOLICITORS.**

- A. Purpose. This Section is not intended to in any way hinder, delay or interfere with legitimate business or organizational activities. The Council finds, however, that solicitors have used public streets and their direct contact with residents of the City for the illegitimate solicitation practices or harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This Section is intended to ferret out and control: (1) businesses and organizations using solicitation as a means of concealing unlawful activities; and (2) businesses and organization which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and, (3) individual natural persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices. The Council further finds that a large number of the residents of the City are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.
- B. Definitions. The following terms, as used in this Section, shall have the meaning stated:
1. "Solicitor" means any person making the solicitation, including such common terms as "peddler", "transient merchant" and "canvasser".
  2. "Solicitee" means the person solicited.
  3. "Goods" means any tangible thing of value including money if the selling price exceeds the face value thereof. The term includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable there from.
  4. "Services" means work, labor, or services of any kind.
  5. "Established place" means real estate in the City owned, leased on a month-to-month or term-certain longer than thirty (30) days. The term

includes a booth, compartment, or area leased or assigned during and for the length of an event or occasion.

6. “Business solicitation” means an attempt by a solicitor, engaging in transactions of the same kind, to sell or distribute for a consideration any goods or services primarily for personal, family, or household purposes, when either the solicitor or person acting for him contact the solicitee by telephone or in person, other than at the established place of business of solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he represents, and the identity or kinds of goods, services or things of value offered; or, (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor; or, (3) an attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper; or, (4) an attempted solicitation for the sale of products of a farm or garden occupies or cultivated by the solicitor, when facts of such occupancy or cultivation are proven by the solicitor.
7. “Contribution solicitation” means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him contacts the solicitee by telephone or in person other than at the established place of meeting, business, service, or activity of the organization represented by the solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he/she represents, and the identity of the services performed or offered by the organization, or, (2) an attempted solicitation in which solicitee has first initiated the contact with the solicitor or the organization represented by him.

C. Prohibited Solicitation Practices.

1. It is unlawful for any solicitor to engage in solicitation for any unlawful business or organizational purpose or activity.
2. It is unlawful for any solicitor to practice harassment, nuisance, theft, deceit, or menacing, troublesome or otherwise unlawful activities during the course of solicitation.
3. It is unlawful for any solicitor to enter, or attempt to gain entrance, to residential premises displaying at such entrance a sign at least three and three-quarters (3¾) inches long and three and three-quarters (3¾) inches high with the words “Peddlers and Solicitors Prohibited” or “Solicitors Prohibited” in type not smaller than forty-eight (48) point.

4. It is unlawful for any solicitor to refuse to leave business premises when requested by the owner, lessee, or person in charge thereof.
  5. It is unlawful for any person to engage in contribution solicitation without completion of licensing or registration as herein provided.
  6. It is unlawful for any person to engage in business solicitation without a license issued by Anoka County and without registering such license with the City.
- D. Duration of Contribution Solicitation Registration. Registration of contribution solicitation shall expire sixty (60) days after registration is approved.

Source: City Code

Effective Date: 06-01-1990

**8-4-8: ABANDONING A MOTOR VEHICLE.** It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a “motor vehicle” is as defined in Minnesota Statutes, Chapter 169.

**8-4-9: LOITERING.** (Ord 45, SS, 6-3-1996)

- A. Petty Misdemeanors. Whoever commits any of the following acts is guilty of a petty misdemeanor:
1. Lingering about the doorway of any building, or sitting or lingering upon the steps, window sills, railing, fence, or parking area adjacent to any building in such a manner so as to obstruct or partially obstruct ingress to or egress from such building or in such a manner to annoy the owner or occupant.
  2. Remaining for more than five (5) minutes on any private business premises which is posted with a conspicuous sign containing the words “No Loitering” when: (a) the business establishment is closed; or (b) the person charged does not visibly demonstrate any intent to conduct business at the establishment or to leave the premises after having conducted such business.
  3. Remaining for more than five (5) minutes on any public business premises which is posted with a conspicuous sign containing the words “No Loitering” when such premises neither has been nor will be open for business within thirty (30) minutes.

4. Remaining for more than five (5) minutes on any public or private non-business premises which is posted with a conspicuous sign containing the words "No Loitering".
  5. Lingering for any length of time upon any public or private premises or move in a slow deliberate manner without purpose or otherwise interfere with, obstruct or render dangerous or unreasonable for passage, any public highway, sidewalk, parking area or right-of-way after having been warned within the preceding four (4) months, either orally or in writing, by the owner, agent, manager or person in charge thereof, or by any law enforcement agent or official, that such conduct will result in a charge under this section.
- B. Misdemeanors. Whoever commits any of the following acts is guilty of a misdemeanor:
1. Failing or refusing to vacate or leave any premises after being requested or ordered either orally or in writing, to do so by the owner, agent, manager or person in charge thereof, or by any law enforcement agent or official or returning at any time thereafter to any such premises after having been so requested or ordered to vacate such premises.
  2. Any of the acts described in Section 8-4-9.A of this Code within one (1) year of being found guilty of any violation of Section 8-4-9 of this Code.
- C. Premises. For purposes of this Section, premises shall include any yard, lot, parcel, sidewalk, boulevard, street, highway, alley, park, playground, restaurant, café, church, school, any car, or other motor vehicle, parking lot, drive-in, building used for business, commercial or industrial purposes, washroom or lavatory, apartment hallway or other location whether public or private in the City of St. Francis. Business premises include all premises, whether public or private, which include a facility that has established open and closed hours. Non-business premises include all other premises in the City of St. Francis.

Source: City Code  
Effective Date 06-01-1990



## SECTION 5

### PARKS

#### SECTION:

8-5-1: Rules and Regulations Governing City Parks

#### **8-5-1: RULES AND REGULATIONS GOVERNING CITY PARKS.**

- A. Adoption. The Council may by resolution adopt, and from time to time amend, rules and regulations governing City parks. It is unlawful to violate such rules and regulations as are conspicuously sign-posted in such parks.
- B. Other Traffic, Rules and Regulations. The Council may by resolution adopt, and from time to time amend, rules and regulations governing City parks. It is unlawful to violate such rules and regulations as are conspicuously sign-posted in such parks, playgrounds, recreational areas or athletic fields as they apply, and it is unlawful for any person to violate the same when so sign-posted.





## SECTION 6

### ALARM SYSTEMS AND EMERGENCY RESPONSE SERVICES

#### SECTION:

8-6-1: Alarm Systems

8-6-2: Charges for Emergency Response Fire Services

#### **8-6-1: ALARM SYSTEMS.** (Ord 3, SS, 3-4-1991)

- A. Definitions. The following terms, as used in this section shall have the meaning as stated:
1. Alarm System. An alarm installation designed to be used for the prevention or detection of burglary, robbery or fire and located in a building, structure or facility.
  2. Alarm User. The person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.
  3. False Alarm. An audio, visual or electronically transmitted alarm signal eliciting a response by fire and police personnel when a situation requiring a response does not, in fact exist, and which is caused by the activation of the alarm system through mechanical failure, pet movement, alarm malfunction, improper installation or the inadvertence of the owner or lessee of the alarm system or of his/her employees or agents. False alarms do 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 owner.
  4. Public Safety Personnel. Duly authorized City employees or their designees.
- B. False Alarm Fees. An alarm system which reports more than three (3) false alarms to the City in a single calendar year will cause the user to be charged a user fee for each alarm in excess of three (3) per calendar year. A fee schedule will be set by Council resolution based upon the number of false alarms reported per calendar year.
- C. Payment of Fees. Payment of use fees provided for in Section 8-6-1.A of this Code must be paid to the city within thirty (30) days from the date of notice by the City to alarm user. Failure to pay the fee within thirty (30) days will cause the

alarm user to be delinquent and subject to certification by the City Clerk to the Anoka County Auditor for collection with taxes due against the property on which the alarm system is installed.

- D. Appeals. Any alarm user which is required by the City to pay a user fee as the result of a false alarm may make a written appeal of the false alarm charge to the City council within ten (10) days of notice by the City of the false alarm charge.

#### **8-6-2: CHARGES FOR EMERGENCY RESPONSE FIRE SERVICES.**

- A. Findings, Purpose, and Intent. This ordinance is adopted for the purpose of authorizing the City of St. Francis to establish and charge user service charges for Fire Services as described in this Section.
- B. Definitions. The following terms shall apply in the interpretation and application of this ordinance.
1. "Motor Vehicle" means any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes any vehicle propelled or drawn by a self-propelled vehicle. This includes semi trailers. It does not include snowmobiles, manufactured homes, all terrain vehicles or park trailers.
  2. "Motor Vehicle Owner" means any person, firm, association, or corporation owning or renting a motor vehicle, or having the exclusive use thereof, under a lease or otherwise, for a period of greater than thirty (30) days.
  3. "Excavator" means a person who conducts excavation.
  4. "Underground Pipeline Utility" means an underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute gas, oil, petroleum products, and other similar substances.
  5. "Person" means the state, a public agency, a local governmental unit, an individual, corporation, partnership, association, or other business or public entity or a trustee, receiver, assignee, or personal representative of any of them.
- C. Conflicts. In the event of any conflict between the provisions of this ordinance and applicable provisions of State law, rules or regulations, the latter shall prevail.

D. Emergency Response Service Charges.

1. The collection service charges shall be as authorized in Minnesota Statute 366.011 and 415.01.
2. Collection of unpaid service charges shall be as authorized in Minnesota Statute 366.012.
3. The service charges shall be as follows:
  - a. Vehicle Accident.
    - 1) Any incident response to an accident involving a motor vehicle where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions of the patients. This would include but not be limited to:
      - a) Extrication.
      - b) Medical Care.
      - c) Absorbing Liquid Spills.
      - d) Vehicle System Safety.
      - e) Vehicle Stabilization.
      - f) Traffic Control.
    - 2) An invoice for \$500 will be sent to the motor vehicle owner or owner's insurance company. In the event the owner cannot provide insurance information and is charged for the offense, the city shall collect the fee through the criminal process as defined in the Minnesota State Statutes.
    - 3) If there is more than one motor vehicle involved for which Fire Department service is provided, each motor vehicle owner or insurer will be invoiced an equal share of the \$500 service charge.
  - b. Fires Along a Railroad Right of Way or Operating Property.
    - 1) Any incident response to a fire or fire hazard emergency caused by a railroad locomotive, rolling stock, or employees on a railroad right-of-way or operating property as defined in Minnesota Statute 219.761.
    - 2) An invoice will be sent to the railroad responsible for the railroad right-of-way or operating property. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident.

- c. Grass Fires Within Trunk Highway Right-of-Way.
  - 1) Any incident response to a grass fire within the right-of-way of a trunk highway or outside of the right-of-way of a trunk highway if the fire originated within the right-of-way of a trunk highway as defined in Minnesota State Statute 161.465.
  - 2) An invoice will be sent to the commissioner of transportation. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident.
- d. Technical Rescue.
  - 1) Any incident response to a rescue on the water, ice, confined space, trench, high or low level where specialized equipment and training are required and where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions of the persons in need of rescue.
  - 2) An invoice will be sent to the persons, corporation or business owner receiving rescue service. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident.
- e. Underground Pipeline Utility Breaks.
  - 1) Any incident response to an underground pipeline utility break if caused by an excavator or person other than a homeowner or resident.
  - 2) An invoice will be sent to the excavator or person responsible for the pipeline utility break. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident.
- f. Hazardous Material.
  - 1) Any incident response to the release of hazardous material from its container, or the threat of a release of a hazardous material from its container, chemical reaction, or other potential emergency as the result of a hazardous material where the Fire Department is able to render aid, provide assistance, or otherwise improve the conditions or protect the public.

- 2) An invoice will be sent to the person responsible for the hazardous material or transportation of the hazardous material. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident, specialized equipment and material used on the incident.

g. Fire as the Result of Negligence

- 1) Any incident response to a fire that resulted from an act of negligence. Examples of this would include but not be limited to methamphetamine labs, commercial and industrial operations where hot work is performed and reasonable care is not exercised, and burning of debris by contractors or homeowners that results in subsequent fires to wild land or structures.
- 2) An invoice will be sent to the person responsible for the negligent fire. The invoice amount will follow the Incident Invoice Schedule based on the number of hours on the incident.

h. Arson Fire.

- 1) Any incident response to a fire where a person is charged under Minnesota Law.
- 2) The fire investigator responsible for the incident investigation will forward all costs encumbered by the Fire Department in association with the incident to the court for reimbursement through restitution.

E. Incident Invoice Schedule.

Engine	Crew of Five	\$400 per hour
Water Tender	Crew of Two	\$200 per hour
Grass Truck	Crew of Two	\$200 per hour
Rescue Truck	Crew of Two	\$100 per hour
Fire Fighter	One	Current hourly rate



## SECTION 7

### DISPOSAL OF ABANDONED MOTOR VEHICLES UNCLAIMED PROPERTY AND EXCESS PROPERTY

#### SECTION:

- 8-7-1: Disposal of Abandoned Motor Vehicles
- 8-7-2: Disposal of Unclaimed Property
- 8-7-3: Disposal of Excess Property
- 8-7-4: Persons Who May Not Purchase – Exception

#### **8-7-1: DISPOSAL OF ABANDONED MOTOR VEHICLES.**

##### A. Definitions.

1. The term “abandoned motor vehicle” means a motor vehicle as defined in Minnesota Statutes, Chapter 169, that has remained for a period of more than forty-eight hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-eight hours on private property without the consent of the person in control of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the City. A classic car or pioneer car, as defined in Minnesota Statutes, Chapter 168, shall not be considered an abandoned motor vehicle within meaning of this Section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the City Code, shall not be considered abandoned motor vehicles within the meaning of this Section.
2. The term “vital component parts” means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.

##### B. Custody. The City may take into custody and impound any abandoned motor vehicle.

##### C. Immediate Sale. When an abandoned motor vehicle is more than seven (7) model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale at public auction, and shall not be subject to the notification, reclamation, or title provisions of this Section



D. Notice.

1. When an abandoned motor vehicle does not fall within the provision of Subparagraph C of this Subdivision, the City shall give notice of the taking within ten (10) days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under Section 8-7-1.E of this Code, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all rights, title and interest in the vehicle and consent to the sale of the vehicle and contents at a public auction pursuant to Section 8-7-1.F of this Code.
2. The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

E. Right to Reclaim.

1. The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within fifteen (15) days after the date of notice required by this Subdivision.
2. Nothing in this section shall be construed to impair any lien of garage keeper under the laws of this State, or the right of the lien holder to foreclose. For the purposes of this section "garage keeper" is 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.

F. Public Sale.

1. An abandoned motor vehicle and contents taken into custody and not reclaimed under Section 8-7-1.E of this Code shall be sold to the highest bidder at public auction for sale, following one notice published at least seven (7) days prior to such auction for sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipts 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. Before such a

vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

2. From the proceeds of the sale of an abandoned motor vehicle, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this Subdivision. Any remainder from the proceeds of the sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in the General Fund of the City.
- G. Disposal of Vehicles Not Sold. Where no bid has been received for an abandoned motor vehicle, the City may dispose of it in accordance with this Subdivision.
- H. Contracts and Disposal.
1. The City may contract with any qualified person for collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.
  2. Where the City enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where a contract has been approved, the Agency may reimburse the City for the costs incurred under the contract which have not been reimbursed.
  3. If the City utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

#### **8-7-2: DISPOSAL OF UNCLAIMED PROPERTY.**

- A. Definition. The term "abandoned property" means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operation, remains unclaimed by the owner, and has been in the possession of the City for at least sixty (60) days and has been declared such by a resolution of the Council.
- B. Preliminary Notice. If the City Clerk/Treasurer knows the identity and whereabouts of the owner, he/she shall serve written notice upon him/her at least thirty (30) days prior to a declaration of abandonment by the Council. If the City acquired possession from a prior holder, the identity and whereabouts of whom

are known by the City Clerk/Treasurer notice shall also be served upon him/her. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of thirty (30) days from the date of such notice.

- C. Notice of Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Clerk/Treasurer shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once at least three (3) weeks prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.
- D. Fund and Claims Thereon. All proceeds from such sale shall be paid into the General Fund of the City and expenses thereof paid there from. The former owner, if he makes claim within eight (8) months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid in the amount of cash or negotiables or, in the case of property sold, the amount received therefore, less a pro rata share of the expenses of storage, publication or notice, and sale expenses, but without interest. Such payment shall be also made from the General Fund.

**8-7-3: DISPOSAL OF EXCESS PROPERTY. (Ord 33, SS, 1-3-1995)**

- A. Declaration of Surplus and Authorizing Sale of Property. The City Administrator may, from time to time, inform the Council that certain personal property or real property owned by the City is no longer needed for a municipal purpose and should be sold or disposed of in the manner stated herein. (Ord 104, SS, 11-20-2006) (Ord. 190, Effective 1/18/14)
  - 1. Surplus Personal Property with a Total Estimated Value of Less than Three Thousand Dollars (\$3,000.00). Property with an estimated value of less than three thousand dollars (\$3,000.00) may be sold by the City Administrator on the open market upon prior notice to the Council. In addition to the open market sales option, damaged or obsolete material may be sold for salvage value, traded in, recycled or thrown away in the City Administrator's discretion. (Ord. 190, Effective 1/18/14)
  - 2. Surplus Personal Property with a Total Estimated Value of Three Thousand Dollars (\$3,000.00) But Less Than Ten Thousand Dollars (\$10,000.00). If property is declared surplus by the Council and assigned an estimated value less than ten thousand (\$10,000.00), the City

Administrator may sell or dispose of surplus property through negotiated sale, quotation, auction or other means as provided by the Council. (Ord 104, SS, 11-20-2006) (Ord. 190, Effective 1/18/14)

3. Surplus Personal Property with a Total Estimated Value between Ten and Fifty Thousand Dollars (\$10,000.00 and \$50,000.00). If the amount of the property is estimated to exceed fifty thousand dollars (\$50,000.00), the City Administrator will follow the direct negotiation or quotation requirement of the Uniform Municipal Contracting Law. (Ord 104, SS, 11-20-2006) (Ord. 190, Effective 1/18/14)
4. Surplus Personal Property with a Total Estimated Value in Excess of Fifty Thousand Dollars (\$50,000.00). If the amount of the property is estimated to exceed fifty thousand dollars (\$50,000.00), the City Administrator will follow the sealed bid requirements of the Uniform Municipal Contracting Law. (Ord 104, SS, 11-20-2006) (Ord. 190, Effective 1/18/14)
5. Receipts from Sales of Surplus Personal Property. All receipts from sales of surplus property under this Section shall be placed in the General Fund.
6. Surplus real property shall be offered for public sale as directed by Council in a commercially reasonable manner. Net cash proceeds of any sale of real property shall be used in accordance with the City Charter.
7. In the alternative to the procedures outlined in Section 8-7-3.A.1 through 8-7-3.A.4 of this Code, the City may utilize an electronic selling process in which purchasers compete to purchase the surplus supplies, materials, or equipment at the highest price in an open and interactive environment. (Ord 104, SS, 11-20-2006) (Ord. 190, Effective 1/18/14)
8. This section does not limit the City's authority to sell surplus property to the National Government, the State or any other political subdivision. (Ord. 190, Effective 1/18/14)

**8-7-4: PERSONS WHO MAY NOT PURCHASE – EXCEPTION.**

- A. No employee of the City who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in a professional capacity, may be a purchaser of property under this Section. Other City employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one week's published or posted notice of sale is given.
- B. It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.



## SECTION 8

### PARTY PERMIT AND REGULATIONS

#### SECTION:

- 8-8-1: Definition
- 8-8-2: Permit Required
- 8-8-3: Party Permit Application
- 8-8-4: Permit Fee
- 8-8-5: Permit Conditions
- 8-8-6: Enforcement

**8-8-1: DEFINITION.** As used in this Section, the term “party” means a gathering of twenty (20) or more natural persons, at any place for any purpose, except:

- A. A permanent place of worship, stadium, athletic field, area, auditorium, coliseum, or other permanent place of assembly, provided, (1) that such assembly is held pursuant to a regularly scheduled daily, weekly, monthly or other publicly advertised or noticed announcement by the person who owns or has control of the premises, and (2) the gathering does not exceed two-hundred fifty (250) natural persons or the seating capacity of such facility where it is held.
- B. A hearing or other assembly held by a government agency or pursuant to law.
- C. So-called PIONEER DAYS or other summer festival.
- D. A gathering of fifty (50) natural persons or less who are members of the same family or to such number of persons gathered on residential premises of one of the persons in attendance at a so-called block or neighborhood party and held during daylight hours and to which the public is not invited.

**8-8-2: PERMIT REQUIRED.** It is unlawful for any person to conduct, maintain, promote, advertise, manage, attend, or on land owned or under his control, permit a party for which a city party permit has not been issued.

**8-8-3: PARTY PERMIT APPLICATION.**

- A. All applications for party permits shall be in writing and made on forms supplied by the City, fully completed in every detail, and under oath.
- B. All applications anticipating attendance of one hundred (100) natural persons, or less, and eight hours or less in duration, shall be made at least fourteen (14)

days in advance of the proposed event and those anticipating attendance of more than one hundred (100) natural persons or more than eight hours in duration shall be made at least thirty (30) days in advance of the proposed event.

- C. Application forms shall contain, but not be limited to, the name and address of the sponsor, the number expected to attend, the type of enclosure, water supply, toilet facilities, solid waste disposal, medical care (if any), illumination, parking, camping, security, fire protection, noise control, and telephones.
- D. Incomplete applications shall forthwith be returned by the City Clerk/Treasurer to the sponsor. Applications for attendance of one hundred (100) natural persons or less and duration of eight hours or less shall be review by the Chief of Police and Fire Chief and, if they both approve and waive submission to the Council, the City Clerk/Treasurer shall issue the permit. All other applications shall be submitted to the Council at its next regular meeting.

**8-8-4: PERMIT FEE.** The Permit fee, which may be graduated, shall be established by Council resolution.

**8-8-5: PERMIT CONDITIONS.** Before the issuance of a party permit the Council may attach any and all conditions it deems necessary or proper for protection of attendees or the City.

**8-8-6: ENFORCEMENT.** Any illegal act by any person in attendance at a party, or in the premises of the party, or any violation of any condition of the permit, or any misrepresentation in the application, shall render the permit void and may, upon Council action, cause a forfeiture of any bond posted as a condition. If persons have gathered pursuant to a void permit they shall be ordered to disperse. It is unlawful for any person to fail to disperse when so ordered by a peace officer.

## SECTION 9

### REDUCING HEALTH RISK EXPOSURE AT CLANDESTINE DRUG LAB SITE AND CHEMICAL DUMP SITES

(Ord 33, SS, 1-3-1995)

#### SECTION:

- 8-9-1: General Provisions
- 8-9-2: Administration
- 8-9-3: City Council Review
- 8-9-4: Violations and Penalties

#### **8-9-1: GENERAL PROVISIONS.**

- A. Purpose and Intent. The purpose of this Ordinance is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dumpsite may exist. The City Council finds that such sites may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site, now and in the future. Based upon professional reports, assessments, testing and investigations, the City Council finds that such hazardous chemicals can condense, penetrate, and contaminate the land, surfaces, furnishings, buildings, and equipment in or near structures or other locations where such sites present health and safety risks to occupied residences, buildings and structures and to the general housing stock of the community.
- B. Interpretation and Application. In their interpretation and application, the provisions of this Code shall be construed to protect the public health, safety and welfare. Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail. Should any court of competent jurisdiction declare any section or subpart of this Ordinance to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the provision declared invalid.
- C. Fees. Fees for the administration of this Ordinance may be established and amended periodically by ordinance of the City Council.
- D. Definitions. For the purpose of this Ordinance, the following terms or words shall be interpreted as follows:



1. Child shall mean any person less than eighteen (18) years of age.
2. Chemical dumpsite shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.
3. Clandestine drug lab shall mean the unlawful manufacture or attempt to manufacture controlled substances.
4. Clandestine drug lab site shall mean any place or area where law enforcement had determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site may include motor vehicle and trailers, dwellings, accessory buildings, accessory structures, multi-family structures, a chemical dumpsite or any land.
5. Controlled substance shall mean a drug, substance or immediate precursor in Schedule I through V of Minn. Stat. § 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
6. Hazardous waste shall mean waste generated, including equipment, from a clandestine drug lab. Such wastes shall be treated, stored, transported or disposed of in a manner consistent with the Minnesota Department of Health, Minnesota Pollution Control, and Anoka County Health Department rules and regulations.
7. Manufacture, in places other than a pharmacy, shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, re-labeling, filling, or by other process of drugs.
8. Owner shall mean any person, firm or corporation who owns, in whole or in part, the land, buildings or structures associated with a clandestine drug lab site or chemical dumpsite.
9. Public health nuisance. All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a public health nuisance pursuant to Minn. Stat. § 463.15, et seq.; § 412.221, et seq.; and 145A.01, et seq.

## **8-9-2: ADMINISTRATION.**

- A. Law Enforcement Notice to Other Authorities. Law Enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dump site that places neighbors, visiting public, or present and future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions, must promptly notify the appropriate municipal, child protection, and public health authorities of the property location, property owner if known, and conditions found.
- B. Declaration of Property as a Public Health Nuisance. If law enforcement determines the existence of a clandestine drug lab site or chemical dumpsite, the property shall be declared a public health nuisance.
- C. Notice of Public Health Nuisance to Concerned Parties. Upon notification by law enforcement authorities, the City Building Official shall promptly issue a Declaration of Public Health Nuisance for the affected property and post a copy of the Declaration at the portable entrance to the dwelling or property. The Building Official shall also notify the owner of the property by mail and notify the following parties:
  - 1. Occupants of the property;
  - 2. Neighbors at potential risk;
  - 3. The Anoka County Sheriff's Office, Anoka County Community Health and Environmental Services;
  - 4. Other state and local authorities, such as MPCA and MDH, which are known to have public and environmental protection responsibilities that are applicable to the situation.
  - 5. The Building Official may notify any financial institution with an interest of record of the Declaration of Public Health Nuisance and shall notify such financial institution should the property owner fail to arrange for timely and appropriate assessment and clean up.
  - 6. The Building Official may notify the insurance company with a policy known to be applicable to the subject property and shall notify such insurance company should the property owner fail to arrange for timely and appropriate assessment and clean up.
  - 7. The Building Official may cause a certified copy of the Declaration of Public Health Nuisance to be filed with the Office of the Anoka County Recorder or Registrar of Titles. Upon abatement of the nuisance as

required herein, the Building Official shall cause a notice of successful abatement or removal of Declaration of Public Health to be so recorded.

D. Property Owner's Responsibility to Act – Order for Abatement. The Building Official shall also issue an order to the owner to abate the public health nuisance, including the following:

1. That the owner, tenant, occupants or other persons in possession of the premises shall immediately vacate those portions of the property, including building and structure interiors, or dump site, which may place such persons at risk. No person shall reside in or occupy any premises or property subject to an order for abatement until such time as the Building Official has determined that the contamination has been reduced to an acceptable level and that the cleaning was conducted in accordance with Minnesota Department of Health guidelines.
2. Promptly contract with appropriate environmental testing and cleaning firms to conduct an on-site assessment, complete clean-up and remediation testing and follow-up testing and determine that the property risks are sufficiently reduced in accordance with Minnesota Department of Health guidelines. The property owner shall notify the City of actions taken and reach an agreement with the City on the clean-up schedule. The City shall consider practical limitations and the availability of contractors in approving the schedule for clean-up.
3. Provide written documentation of the clean-up process, including a signed written statement that the contamination has been reduced to an acceptable level and that the clean-up was conducted in accordance with Minnesota Department of Health guidelines.

E. Property Owner's Responsibility for Costs. The property owner shall be responsible for all costs of abatement or clean-up of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean-up. The City shall prepare and provide to the property owner a Statement of Itemized Public Costs which shall be due and payable upon receipt. Public costs may include, but are not limited to:

1. Posting of the site;
2. Notification of affected parties;
3. Expense related to the recovery of costs, including the assessment process;
4. Laboratory fees;

5. Clean-up services, including septic systems;
6. Administrative Fees;
7. Emergency response costs;
8. Other associated costs; and
9. Any legal costs including attorney fees related to the nuisance abatement.

F. Recovery of Public Costs.

1. If, after service of notification of the Declaration of Public Health Nuisance, the property owner fails to arrange appropriate assessment and clean-up, the City Building Official is authorized to obtain judicial authority to proceed in a prompt manner to initiate the on-site assessment and clean-up.
2. If the City is unable to locate the property owner within ten (10) days of the Declaration of Public Health Nuisance, the City is authorized to obtain judicial authority to proceed in a prompt manner to initiate the on-site assessment and clean-up.
3. The City may abate the nuisance by obtaining judicial authority to remove the hazardous structure or building, or otherwise, according to Minnesota Statutes Chapter 463. In cases involving motor vehicles, trailers, boats or other moveable property, the City may abate the nuisance by disposal of the property through lawful authority.
4. If the City abates the public health nuisance, or otherwise incurs public costs, in addition to any other legal remedy, the City shall be entitled to recover all public costs. The City may recover costs by civil action against the person or persons who own the property or by assessing such costs as a special tax against the property in the manner as taxes and special assessments are certified and collected pursuant to Minn. Stat. § 429.101.
5. Nothing herein shall limit the authority of the City to enforce this ordinance or seek any other legal remedy to abate the nuisance through declaratory action injunction, nuisance declaration or otherwise.

G. Authority to Modify or Remove Declaration of Public Health Nuisance.

1. The Building Official is authorized to modify the Declaration conditions or remove the Declaration of Public Health Nuisance.

2. Such modifications or removal of the Declaration shall only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks, including those to neighbors and potential dwelling occupants are sufficiently abated or corrected in accordance with Minnesota Department of Health guidelines.

**8-9-3: CITY COUNCIL REVIEW.** The owner of the property or any party with a legal interest in the property who has been issued a Declaration of Public Health Nuisance, an Order for Abatement, or a Statement of Public Costs may appeal the Declaration of Public Health Nuisance, the Order for Abatement or the Statement of Public Costs to the City Council. The appeal shall be in writing filed with the City Clerk and Anoka County Community Health and Environmental Services, specifying the grounds for the appeal and the relief requested. The appeal must be filed within ten days of the issuance of the item from which appeal is taken. The City Council shall hear the appeal at the next available City Council meeting. Upon review, the City Council may affirm, modify or reverse the action taken. The filing of an appeal shall suspend the terms of the Declaration of the Public Health Nuisance, Order for Abatement, or Statement of Public costs, whichever is applicable. However, in the instance of an appeal from an Order for Abatement, the appeal shall not suspend that part of the order prohibiting occupancy of the property.

**8-9-4: VIOLATIONS AND PENALTIES.** Any persons violating any provisions of this Article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minn. Stat. § 609.02, Subd. 3.

## SECTION 10

### ILLICIT DISCHARGES

#### SECTION:

- 8-10-1: Purpose
- 8-10-2: Scope
- 8-10-3: Definitions
- 8-10-4: Administration
- 8-10-5: Discharge to City Storm Sewer System Prohibited
- 8-10-6: Connection to Sanitary Sewer Prohibited
- 8-10-7: Nuisances
- 8-10-8: Emergency Suspension of Utility Service and Storm Sewer System Access
- 8-10-9: Non-Emergency Suspension of Utility Service and Storm Sewer Access
- 8-10-10: Violation a Misdemeanor

**8-10-1: PURPOSE.** The purpose of this ordinance is to control or eliminate storm water pollution associated with illicit discharges that may occur within the City.

**8-10-2: SCOPE.** The State of Minnesota requires illicit discharge limitations into surface waters; and the City Council desires to protect its surface waters; and to provide long-term planning to minimize the impact of illicit pollutants on storm water and groundwater; and to encourage "best management practices" for the control of these illicit discharges. This Ordinance develops regulations to manage illicit storm water discharge within the City.

**8-10-3: DEFINITIONS.** As used this Code, the following words and terms shall have the meanings stated:

- A. Contaminated. Containing a harmful quantity of any substance.
- B. Contamination. The presence of or entry of any substance which may be deleterious to the public health and/or the quality of the water into the public storm water system, Waters of the State, or Waters of the United States.
- C. Cosmetic Cleaning. Cleaning done for cosmetic purposes to the exterior of buildings, motorized vehicles, parking lots, recreational vehicles or similar activity. It does not include industrial cleaning, cleaning associated with manufacturing activities, hazardous or toxic waste cleaning, or any cleaning otherwise regulated under federal, state, or local laws.

- D. Harmful Quantity. The amount of any substance that will cause pollution of waters of the City, State or Nation that will cause lethal or sub-lethal adverse effects on the representative, sensitive aquatic monitoring organisms residing in waters.
- E. Mobile Commercial Cosmetic Cleaning. Power washing, steam cleaning and any other mobile cosmetic cleaning operation of vehicles and/or exterior surfaces engaged for commercial purposes.
- F. National Pollutant Discharge Elimination System (NPDES). The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the federal Clean Water Act.
- G. Notice of Intent (NOI). A written notice to the Minnesota Pollution Control Agency that the City plans on meeting the MS4 permit requirements.
- H. Point Source. Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
- I. Pollution. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any Waters of the State or the storm sewer system, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
- J. Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into groundwater, subsurface soils, surface soils, the storm sewer system or the Waters of the State.

**8-10-4: ADMINISTRATION.** The City of St. Francis Director of Public Works and the Director's authorized representatives are authorized to administer, implement, and enforce the provisions of this Ordinance.

**8-10-5: DISCHARGE TO CITY STORM SEWER SYSTEM PROHIBITED.**

- A. A person commits a violation if the person introduces or causes to be introduced into the St. Francis storm sewer system any discharge that is not composed

entirely of storm water. The following are considered exempt discharge activities:

1. A discharge authorized by, and in full compliance with a site specific NPDES permit such as a storm water management plan permit for construction activities.
2. A discharge or flow resulting from fire fighting by the Fire Department.
3. Agricultural storm water runoff.
4. A discharge or flow from water line flushing or disinfection that contains no harmful quantity of total residual chlorine or any other chemical used in line disinfection.
5. A discharge or flow from lawn watering, or landscape irrigation.
6. A discharge or flow from a diverted stream flow or natural spring.
7. A discharge or flow from uncontaminated pumped groundwater or rising groundwater.
8. Uncontaminated groundwater infiltration.
9. Uncontaminated discharge or flow from a foundation drain, sump pump, or footing drain.
10. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container.
11. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant.
12. A discharge or flow from a riparian habitat or wetland.
13. A discharge or flow from cold water (or hot water with prior permission of the Director) used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance.
14. Drainage from a private residential swimming pool containing no harmful quantities of chlorine or other chemicals. Drainage from swimming pool filter backwash is prohibited.



- B. No exemption shall be allowed under Section 10-9-4-A if:
1. The discharge or flow in question has been determined by the City to be a source of a pollutant or pollutants to the waters of the State or to the storm sewer system.
  2. Written notice of such determination has been provided to the discharger.
  3. The discharge has continued after the expiration of the time given in the notice to cease the discharge.
- C. A person commits a violation if the person introduces or causes to be introduced into the storm sewer system any harmful quantity of any substance.

**8-10-6: CONNECTION TO SANITARY SEWER PROHIBITED.** A person commits an offense if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.

**8-10-7: NUISANCES.**

- A. An actual or threatened discharge to the storm sewer system that violates or would violate this Ordinance is hereby declared to be a nuisance.
- B. A line conveying sewage or designed to convey sewage that is connected to the storm sewer system is hereby declared to be a nuisance.

**8-10-8: EMERGENCY SUSPENSION OF UTILITY SERVICE AND STORM SEWER SYSTEM ACCESS.**

- A. Providing there are State regulations restricting the interruption of service, the City may, without prior notice, suspend water service, sanitary sewer service, and/or storm sewer system discharge access to a person discharging to the storm sewer system, Waters of the State, or Waste Water Treatment Plant when such suspension is necessary to stop an actual or threatened discharge which:
1. Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or
  2. Presents or may present imminent and substantial danger to the storm sewer system or Waters of the State.
- B. When the St. Francis Director of Public Works determines that City-provided water and/or sanitary sewer service needs to be suspended pursuant to Section

8-10-8.A of this Code, the Director of Public Works is empowered to order such suspension.

- C. As soon as is practicable after the suspension of service or storm sewer system discharge access, the Director of Public Works shall notify the violator of the suspension in person or by certified mail, return receipt requested, and shall order the violator to cease the discharge immediately. When time permits, the Director should also attempt to notify the violator prior to suspending service or access.
- D. If the violator fails to comply with an order issued under Section 8-10-8.C of this Code, the Director may take such steps is deemed necessary to prevent or minimize damage to the storm sewer system or Waters of the State, or to minimize danger to persons.
- E. The City shall not reinstate suspended services or storm sewer system access to the violator until:
  - 1. The violator presents proof, satisfactory to the Director, that the non-complying discharge has been eliminated and its cause determined and corrected; and
  - 2. The violator pays the City for all costs the City incurred in responding to abating, and remediating the discharge or threatened discharge; and
  - 3. The violator pays the City for all costs the City will incur in reinstating service or access.
- F. A violator whose service or access has been suspended or disconnected may appeal such enforcement action to the Director, in writing, within ten days of notice of the suspension.
- G. The City may obtain a lien against the property to recover its response costs.
- H. The remedies provided by this Section are in addition to any other remedies set out in this chapter. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

**8-10-9: NON-EMERGENCY SUSPENSION OF UTILITY SERVICE AND STORM SEWER ACCESS.**

- A. The City may terminate the City-provided water supply, sanitary sewer connection, and/or storm sewer system access any person discharging to the storm sewer system in violation of this ordinance, if such termination would abate or reduce the illicit discharge.

- B. The Director of Public Works will notify a violator of the proposed termination of its water supply, sanitary sewer connection, and/or storm sewer system access. The violator may petition the Director for a reconsideration and hearing before the City Council.
- C. The City shall not reinstate suspended services or storm sewer system access to the discharger until:
  - 1. The violator presents proof, satisfactory to the Director, that the non-complying discharge has been eliminated and its cause determined and corrected; and
  - 2. The violator pays the City for all costs the City will incur in reinstating service or storm sewer system access.
- D. The remedies provided by this Section are in addition to any other remedies set out in this ordinance. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.
- E. A person commits a violation if the person reinstates water service, sanitary sewer service, and or storm sewer system access to premises terminated pursuant to this ordinance, without the prior approval of the Director of Public Works.

**8-10-10: VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

## Section 11

### 8-11-1: OFFENSES RELATING TO DRUG PARAPHERNALIA:

(Ord 217, SS 03/21/16)

- A. Use or Possession Prohibited. It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this subsection is a petty misdemeanor.
- B. Delivery or Manufacturing Prohibited. A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, enhance, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of Minnesota Statutes Chapter 152. Any violation of this subsection is a misdemeanor.
- C. Definitions:

#### DRUG PARAPHERNALIA:

- 1. Except as otherwise provided in subsection 2 of this definition, "drug paraphernalia" means all equipment, products, and materials of any kind, which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, enhancing, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of Minnesota statutes chapter 152.
- 2. "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes.
- 3. The term paraphernalia includes, without limitation:
  - a. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
  - b. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

- c. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant, which is a controlled substance.
- d. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
- e. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
- f. Diluents and adulterants, including quinine hydrochloride, mannitol, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.
- g. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- h. Blenders, bowls, containers, spoons, grinders, and mixing devices used, intended for use, or designed for use in compounding, manufacturing, producing, processing, or preparing controlled substances.
- i. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
- j. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or products or materials used or intended for use in manufacturing, producing, processing, or preparing controlled substances.
- k. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing controlled substances to include, but not limited to, marijuana, cocaine, hashish, or hashish oil into the human body, including:
  - (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
  - (2) Water pipes.
  - (3) Carburetion tubes and devices.

- (4) Smoking and carburetion masks.
- (5) Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, a marijuana cigarette, that has become too small or too short to be held in the hand.
- (6) Miniature cocaine spoons and cocaine vials.
- (7) Chamber pipes.
- (8) Carburetor pipes.
- (9) Electric pipes.
- (10) Air driven pipes.
- (11) Chillums.
- (12) Bongs.
- (13) Ice pipes or chillers.

- I. Ingredients or components to be used or intended or designed to be used in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance, whether or not otherwise lawfully obtained, including anhydrous ammonia, nonprescription medications, methamphetamine precursor drugs, or lawfully dispensed controlled substances.

D. Drug Paraphernalia Guidelines: In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors:

- 1. Statements by an owner or by anyone in control of the object concerning its use.
- 2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.
- 3. The proximity of the object, in time and space, to a direct violation of this section.
- 4. The proximity of the object to controlled substances.
- 5. The existence of any residue of controlled substances on the object.

6. Direct or circumstantial evidence of the intent of an owner, or of any person in control of the object, to deliver the object to another person whom the owner or person in control of the object knows, or should reasonably know,

intends to use the object to facilitate a violation of this section. The

innocence of an owner, or of any person in control of the object, as to a direct violation of this section may not prevent a finding that the object is intended or designed for use as drug paraphernalia.

7. Instructions, oral or written, provided with the object concerning the object's use.
8. Descriptive materials accompanying the object, which explain or depict the object's use.
9. National and local advertising concerning the object's use.
10. The manner in which the object is displayed for sale.
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, for example, a licensed distributor or dealer of tobacco products.
12. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
13. The existence and scope of legitimate uses for the object in the community.
14. Expert testimony concerning the object's use.
15. The actual or constructive possession by the owner or by a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions, or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance.

(Ord 217, SS Effective Date April 25, 2016)

## **SECTION 12**

### **8-12-1. Definitions**

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. "Child" means any person under the age of eighteen (18).

B. "Designated predatory offender" means any person who has been categorized as a Level III predatory offender under Minnesota Statutes, Sec. 244.052, any successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of re-offense.

C. "Permanent residence" means a place where a person abides, lodges, or resides for 14 or more consecutive days,

D. "Temporary residence" means a place where a person abides, lodges, or resides for a period of 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 non-consecutive days in any month and which is not the person's permanent residence.

E. "School" means a public or non-public elementary or secondary school.

F. "Licensed child care center" means a group child care center currently licensed by the applicable County or the State of Minnesota.

G. "Public playground" means a publicly-owned, improved park or other outdoor area designed, equipped, and set aside primarily for children's play.

### **8-12-2 Temporary Regulations on Predatory Offenders**

A. It shall be unlawful for any designated predatory offender to establish a permanent or temporary residence within 2,000 feet of any school, licensed child care facility, public playground, or any other place where children are commonly known to regularly congregate.

B. For purposes of determining the minimum distance separation required by this Section, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence of the designated predatory offender to the nearest outer property line of the protected property.



C. A designated predatory offender residing within a prohibited area as described in this Section does not commit a violation of this Ordinance if any of the following apply:

1. The person established the permanent or temporary residence and reported and registered the residence pursuant to Minnesota Statutes, Sec. 243.166 and 243.167 or any successor statute, prior to the effective date of this ordinance;

2. The school, licensed child care center, or public playground within 2,000 feet of the person's permanent or temporary residence was opened after the person established such residence and reported and registered the residence pursuant to Minnesota Statutes, Sec. 243.166 and 243.167, or any successor statute;

3. The residence is also, as of the effective date of this ordinance, the primary residence of the person's parents, grandparents, siblings, or spouse; or

4. The residence is a property purchased, leased, or contracted with and licensed by the Minnesota Department of Corrections prior to the effective date of this ordinance.

#### **8-12-3 Duration.**

A. The regulations imposed by this Section shall be in effect for a period of one year from the date of its adoption, until the final adoption of an amendment to the City Code regarding the residency location of predatory offenders, or upon its express repeal by the City Council, whichever occurs first.

#### **8-12-4. Enforcement**

A. A violation of this Ordinance shall be a misdemeanor. In addition, the City may enforce this Ordinance by mandamus, injunction, or other appropriate civil remedy in any court of competent jurisdiction, or through any administrative penalties program of the City Code.  
(Ord. 221, SS Effective date Sept 19, 2016)



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# **Subdivision Ordinance**

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**Effective: June 20, 2010**

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**Northwest Associated  
Consultants, Inc.**

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## CHAPTER 1: TITLE AND APPLICATION

### SECTION

- 11-01-1: Title
- 11-01-2: Purpose
- 11-01-3: Jurisdiction
- 11-01-4: Platting Authority
- 11-01-5: Relation to Other Laws and Regulations
- 11-01-6: Policy

**11-01-1: TITLE:** Chapters 1 through 14, inclusive, shall be known as the “St. Francis Subdivision Ordinance,” and will be referred to as “this Ordinance.”

**11-01-2: PURPOSE:** The Council, being aware of the responsibility which it has for the adoption of rules and regulations designated for the protection of health, safety, general welfare, and convenience of the community, deems it necessary to provide regulations requiring platting, and for subdividing of property within the City for the following purposes: (1) to encourage well-planned, efficient and attractive construction, and to prevent the use of land that is not feasible for subdivision; (2) to provide for the health and safety of current and future residents by requiring necessary services such as properly designed and located streets, drainage, and an adequate sewage disposal and water supply; (3) to place the cost of improvements against those benefiting from their construction; (4) to make all subdivision of property conform as nearly as possible to the Comprehensive Plan; (5) to secure equitable handling of all subdivision plans by providing uniform procedures and standards; (6) to assure the general design of subdivisions complies with the Zoning Chapter, State Building Code and other pertinent regulations of the City, the County, and the State of Minnesota. All subdivisions platted within the jurisdiction of the City of St. Francis after the adoption of this Ordinance shall, in all respects, fully comply with the regulations set forth in this Ordinance to assure new subdivisions will contribute toward an attractive, orderly, stable and wholesome community environment, and be designed with adequate municipal services and efficient movement of traffic.

**11-01-3: JURISDICTION:** The rules and regulations governing plats and subdivisions of land contained in this Ordinance shall apply to all lands lying within the corporate limits of the City.

**11-01-4: PLATTING AUTHORITY:** The St. Francis City Council shall serve as the platting authority of the City in accordance with Minnesota Statute Chapters 462.358, as may be amended. No plat or replat shall be filed or accepted for filing by the Office of

the County Recorder or Registrar of Titles unless adopted by the affirmative vote of the majority of the members of the City Council approving such plat or replat. Building permits shall not be issued for any structure on a lot in any proposed subdivision that has not been approved by the City Council. The City Council shall not permit any public improvement to be installed or provide associated services unless the preliminary plat is approved.

**11-01-5: RELATION TO OTHER LAWS AND REGULATIONS:** The provisions of this Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with private restrictions placed upon property by deed, covenant or other private agreements which are equal to or more restrictive, or with restrictive covenants running with the land to which the City is a party except that the most restrictive shall apply. In their interpretation and application, the provisions of this Ordinance shall be the minimum requirements adopted for the protection of the public health, safety and general welfare.

**11-01-6: POLICY:**

- A. The subdivision of land and the subsequent development of a subdivision are subject to the control of the City pursuant to the St. Francis Comprehensive Plan for the orderly, planned, efficient and economical development of the City.
- B. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health from fire, flood, or other menace. Land shall not be subdivided unless proper provisions have been made for drainage, stormwater management, natural resource protection, potable water, domestic waste water, streets, and capital improvements such as parks, recreation facilities, transportation facilities, stormwater improvements, and any other necessary improvements.
- C. The existing and proposed public improvements shall conform to and be properly related to the Comprehensive Plan, Park and Trail Plan, Stormwater Management Plan, Water Plan, Sanitary Sewer Plan, and the Capital Improvement Plan of the City.
- D. The provisions of this Ordinance are in addition to and not in replacement of provisions of all Building Codes and the Zoning Ordinance. Any provision of the Building Code and Zoning Ordinance shall remain in full force and effect except as may be contradictory to the provisions hereof. Where any provision conflicts with any other provision, the most restrictive provision shall be applied.

## CHAPTER 2: RULES AND DEFINITIONS

### SECTION

- 11-02-1: Application of Rules  
11-02-2: Definitions

**11-02-1: APPLICATION OF RULES:** The language contained in this Ordinance shall be interpreted in accordance with the following rules of construction as applicable:

- A. The singular includes the plural and the plural the singular.
- B. The present includes the past and future tenses, and the future tense includes the present tense.
- C. The masculine gender includes the feminine and neuter genders.
- D. Whenever a word or term defined hereinafter appears in this Ordinance, its meaning shall be construed as set forth in such definition.
- E. In the event of conflicting provisions, the more restrictive shall apply.
- F. The word "shall" is always mandatory and not discretionary.
- G. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirement for the promotion of health, safety, and welfare.

**11-02-2: DEFINITIONS:** For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given them.

**ADMINISTRATIVE SUBDIVISION.** In dealing with platted property, a subdivision where the intent is to permit the adding of a parcel of land to an abutting lot or adjust a lot line.

**ALLEY.** A public or private right-of-way which affords a secondary means of access to abutting property.

**APPLICANT.** The owner, their agent or person having legal control, ownership and/or interest in land for which the provisions of this Ordinance are being considered for or reviewed.



**BUILDABLE LAND.** Contiguous land area occurring within the property lines of a parcel or lot excluding wetlands and/or water courses.

**CAPITAL IMPROVEMENT PLAN.** A proposed timetable or schedule of all future capital improvements to be carried out during a specific period and listed in order of priority, together with cost estimates and the anticipated means of financing each project.

**CERTIFICATE OF SURVEY.** A document prepared by a land surveyor that precisely describes area, dimensions, and location of a parcel or parcels of land and additional information such as existing and proposed building or structure locations, existing and proposed elevations, and other site features may that be required by the City.

**CITY ADMINISTRATOR.** The person hired by the St. Francis City Council who is responsible for supervising governmental operations and implementing City policies.

**CITY ATTORNEY.** The person designated by the City Council to be the City Attorney for the City of St. Francis.

**CITY BUILDING OFFICIAL.** The person designated by the City Council to be the City Building Official for the City of St. Francis.

**CITY COUNCIL.** The governing body for the City of St. Francis.

**CITY ENGINEER.** The person designated by the City Council to be the City Engineer for the City of St. Francis.

**CLERK.** The St. Francis City Clerk.

**COMMON INTEREST COMMUNITY (CIC).** Contiguous or non-contiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for: (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of, or (iv) construction, maintenance, repair or replacement of improvements located on one (1) or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies.

**COMPREHENSIVE PLAN.** The comprehensive development plan made and adopted by the City of St. Francis indicating the general locations recommended for major thoroughfares, streets, parks, public buildings, zoning districts and other public improvements.

**CONTOUR MAP.** A map on which shapes of land surfaces are shown by lines connecting points of equal elevations. The contour interval is the vertical difference between contour lines.

**CUL-DE-SAC.** (See Street)

**DESIGN STANDARDS/STANDARD SPECIFICATIONS.** The specifications for the preparation of concept plans, preliminary plats, and final plats indicating, among other things, the optimum minimum or maximum dimensions of such features as rights-of-way and blocks, as set forth in this Ordinance.

**DEVELOPER.** The legal or beneficial owner(s) of a parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

**DEVELOPMENT.** The construction, installation or alteration of any structure, the extraction, clearing or other alteration of terrestrial or aquatic vegetation, land or the course, current or cross section of any water body or watercourse or the division of land into two (2) or more parcels.

**DOUBLE FRONTAGE LOTS.** See Lot.

**DRAINAGE COURSE.** A water course or indenture for the transmission of surface water.

**EASEMENT.** A grant by the property owner for temporary or permanent use of a strip of land by the public, a corporation, or persons for specific purposes.

**ESCROW.** Deposited funds in an account maintained by the governmental unit specifically for the purpose of ensuring fulfillment of certain obligations pursuant to this Ordinance.

**FINAL PLAT.** The final map, drawing or chart on which the developer's plan of subdivision is presented to the City Council for approval and which, if approved, shall be submitted to the County Register of Deeds or Registrar of Titles.

**FINANCIAL GUARANTEE.** A financial security consistent with Section 11-XX-11 of this Ordinance, posted with the City with the approval of a final plat, guaranteeing compliance with the approved final plat, construction plans, and conditions of approval set forth by the City.

**FRONTAGE.** The width of a lot or building site measured on the line separating it from a public street right-of-way.

**GRADE, PERCENTAGE OF.** The rise or fall of a street in feet for each one hundred (100) feet of horizontal distance measured at the center line of the street.

**HIGH WATER LEVEL.** The water level in a watercourse which could be predicted to occur as a result of the critical 100-year or 500-year rainfall event using U.S. Department of Agriculture Soil Conservation Service methodology, as approved by the City.

**IMPROVEMENT, PUBLIC.** Any drainage facility, street, parkway, park, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established.

**KEY MAP.** A map drawn to a comparatively small scale which definitely shows the area proposed to be platted and the areas surrounding it, to a given distance.

**LAND DISTURBANCE.** Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of the site preparation, grading, building construction or any other construction activity.

**LAND SURVEYOR.** A land surveyor licensed in the State of Minnesota.

**LOT.** A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof. Lots may be classified as follows:

- A. **LOT, BASE.** Lots meeting all specifications in the Zoning District prior to being subdivided into a two family dwelling, townhouse, or quadraminium subdivision.
- B. **LOT, BUTT.** Any lot located immediately between two (2) corner lots.
- C. **LOT, CORNER.** A lot situated at the junction of, and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.
- D. **LOT, FLAG.** A lot without the required full lot width on a public roadway and with access to the public roadway provided to the bulk of the lot by means of a narrow strip or private easement.
- E. **LOT, INTERIOR.** A lot other than a corner lot.
- F. **LOT, THROUGH (DOUBLE FRONTAGE).** A lot which has a pair of opposite lot lines abutting two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this Ordinance.

**LOT DEPTH.** The mean horizontal distance between the front lot line and the rear lot line of a lot (the greater frontage of a corner lot shall be deemed its depth and the lesser frontage its width).

**LOT FRONTAGE.** That boundary of a lot abutting a public right-of-way having the least width.

**LOT LINE.** The property line bordering a lot except that where any portion of a lot extends into the public right-of-way, shall be the lot line for purposes of this Ordinance.

**LOT WIDTH.** The horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum front building setback line.

**METES AND BOUNDS.** A method of property description whereby properties are described by means of their directions and distance from an easily identifiable location.

**NATURAL WATER WAY.** A natural passageway in the surface of the earth, so situated and having such a topographical nature that surface water flows through it from other areas before reaching a ponding area or stream.

**OUTLOT.** A parcel of land shown on a subdivision plat as an outlot, and designated alphanumerically, (for example - Outlot A.) Outlots are used to designate one of the following: land that is part of the subdivision but is to be subdivided into lots and blocks at a later date; land that is to be used for a specific purpose (i.e., parks, trails, stormwater holding, etc.) as designated in a developer's agreement or other agreement between the City and the developer.

**OWNER.** An individual, 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 land under this Ordinance.

**PARKWAY.** See Street.

**PERSON.** Any individual, firm, association, syndicate or partnership, corporation, trust, or any other legal entity.

**PLANNED UNIT DEVELOPMENT (PUD).** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, or a commercial or industrial development which contains two or more principal buildings. The units or buildings may be for sale, rent, or lease, and may also involve clustering of the units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated

as condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units.

**PLANNING COMMISSION.** An appointed body that advises the City Council on matters related to growth and development in the City of St. Francis.

**PLAT.** The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statute 505, as may be amended, and containing all elements and requirements for forth in the Subdivision Ordinance adopted pursuant to Section 462.358 and Chapter 505.

**PLAT, FINAL.** (See Final Plat)

**PLAT, PRELIMINARY.** (See Preliminary Plat)

**PRELIMINARY PLAT.** The preliminary map or drawings and accompanying material described in Section 11-06 of this Ordinance indicating the proposed layout of the subdivision to be submitted to the City for their consideration for compliance with the Comprehensive Plan, the Zoning Ordinance, and these regulations along with required supporting data.

**PROTECTIVE COVENANTS.** A restriction of the use placed upon the property by a present or former owner and recorded in the Office of the County Recorder or the Registrar of Titles. Protective covenants are enforced only by the landowners involved and not by the City or other public agency.

**REGISTERED LAND SURVEY.** A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of Registered Land Survey Number.

**RESOURCE INVENTORY.** A quantitative summary of existing natural features of a site or area including topography, soil types, site vegetation, and hydrolic characteristics.

**RESUBDIVISION (REPLAT).** A change in an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved for public use, or any lot line or if it affects any map, or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

**RIGHT-OF-WAY.** A strip of land occupied or intended to be occupied by a street, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term right-of-way for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining

such right-of-way and not included within the dimensions or areas of such lots or parcels.

**RIGHT-OF-WAY WIDTH, ROAD.** The horizontal distance between the outside edges of a road right-of-way.

**SETBACK.** The minimum horizontal distance between the foundation wall of a structure and the property line, ordinary high water mark of a wetland or stormwater pond nearest thereto.

**STREET.** A public roadway, whether improved or unimproved, and whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, court, way, trail or however otherwise designated. Private ingress and egress roadways shall not be considered streets. City streets shall be categorized by functional classification.

- A. **ARTERIAL STREET.** A type of road that is characterized by limited access and a design capacity to move relatively large volumes of traffic in an expedient manner. Arterials are divided into principal arterials and minor arterials based on their access, the traffic volume they carry and the areas they serve.
- B. **COLLECTOR STREET.** A type of road that functions to provide connections between neighborhoods and from neighborhoods to arterial streets and/or areas with concentrations of business. They typically have lower traffic volumes and speeds than arterials, but higher than local streets. Collectors are divided into those roads that are designed to distribute traffic from major generators or from minor collectors to and from arterial roads (major collectors) and those roads that are designed to distribute traffic from major collectors or arterials to and from local streets (minor collectors).
- C. **CUL-DE-SAC.** A short local street having one (1) end open street to traffic and being permanently terminated by a vehicular turn-around at the other.
- D. **LOCAL STREET.** A type of road that functions to provide access to adjacent properties and from properties to collectors and/or arterial streets. Speeds and traffic volumes are typically lower than collector or arterial streets.
- E. **SERVICE STREET.** A frontage or backage road, marginal access street, or otherwise designated street which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.

**STREET WIDTH.** The width of the improved surface of the street as measured at right angles or radially to the centerline of the street from curb face to curb face, or on a street without curbs from the outside edge of the improved shoulder to outside edge of improved shoulder.

**SUBDIVISION.** The creation of one (1) or more lots under the provisions of this Ordinance or any division of an existing lot. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

**SUBDIVISION DESIGN STANDARDS.** The guidelines, principles and specifications for the preparation of subdivision plans indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the preliminary and final plat.

**TRAIL.** An easement or land dedication given to the City for the purpose of providing walking and/or bicycling routes to City residents. The trails shall provide recreational opportunities and access to parks, natural areas, and public land in accordance with the City's adopted Comprehensive Plan and Parks and Trails Plan.

**VARIANCE.** A modification or variation of the provisions of this Ordinance as applied to specific properties, where an unusual hardship on the land exists.

**WATERCOURSES.** Any natural or man-made passageway on the surface of the earth so situated and having such a topographical nature that surface water stands or flows through it from other areas. The term includes ponding areas, drainage channels, swales, waterways, creeks, rivers, lakes, streams, wetland areas, and any other open surface water flow which is the result of stormwater or ground water discharge. This term does not include man-made piping systems commonly referred to as storm sewers.

**ZONING ADMINISTRATOR.** The duly appointed officer charged with the administration and enforcement of the Zoning Ordinance.

**ZONING ORDINANCE.** The St. Francis Zoning Ordinance, as may be amended, regulating the use of land within St. Francis.

## CHAPTER 3 - GENERAL PROVISIONS

### SECTION

- 11-03-1: Compliance with Comprehensive Plan, Zoning Ordinance and Official Map
- 11-03-2: Fees
- 11-03-3: Registered Land Surveys
- 11-03-4: Metes and Bounds
- 11-03-5: Building Permits
- 11-03-6: Variances
- 11-03-7: Premature Subdivision
- 11-03-8: Planned Unit Developments
- 11-03-9: Common Interest Community (CIC) Plats

**11-03-1: COMPLIANCE WITH COMPREHENSIVE PLAN, ZONING ORDINANCE, AND OFFICIAL MAP:** No subdivision of land shall conflict with the provisions of the Comprehensive Plan, Zoning Ordinance, or Official Maps.

**11-03-2: FEES:** The fees for all applications and for all permits shall be established by the City Council. The acceptance of all applications, issuance of permits, or recording of any plat shall not occur until a complete application has been filed and the appropriate fees have been paid.

**11-03-3: REGISTERED LAND SURVEYS:** All Registered Land Surveys shall be filed subject to the same procedures as required for the filing of a preliminary plat for platting purposes. The standards and requirements set forth in these regulations shall apply to all Registered Land Surveys.

**11-03-4: METES AND BOUNDS:**

- A. Conveyances by metes and bounds shall be prohibited except in the following cases:
  - 1. A subdivision meeting the qualifications and following the procedures of Administrative Subdivision in Section 11-04. (Ord 177, SS, 10-21-12)
  - 2. A subdivision creating no more than one (1) new lot and both resulting lots are ten (10) acres or greater in size with three hundred (300) feet or more of frontage. (Ord 177, SS, 10-21-12)



- B. Divisions by metes and bounds creating new parcels shall follow the same procedure as established for a preliminary plat. Application requirements may be waived at the discretion of the Zoning Administrator.

**11-03-5: BUILDING PERMITS:** No building permit shall be issued by the City for any construction, enlargement, alteration, repair, demolition or moving of any building or structure on any lot or parcel until all the requirements of this Ordinance have been fully met or exceptions from this requirement have been formally established by a development contract.

- A. Prior to issuance of any building permit on any lot within a subdivision, the City of St. Francis shall have received a site survey showing proposed grading, drainage, and building pad elevations along with a certification by a registered land surveyor or engineer that the survey is in compliance with the approved subdivision record plans for grading, drainage, stormwater, and erosion control.
- B. Prior to the issuance of any certificate of occupancy for any lot within the subdivision, the City of St. Francis shall receive a written certification from a registered land surveyor or registered engineer which states that the grading, drainage and building pad elevations are in general compliance with the final certified grading plan for the subdivision.
- C. Except for approved model homes, building permits shall not be issued for any new subdivision until such a time as the improvements are deemed acceptable and ready for such use by the City Engineer.

**11-03-6: VARIANCES:** The City Council may approve variances from the minimum standards of this Ordinance when, in its opinion, exceptional and undue hardship may result from strict compliance.

- A. In approving any variance, the City Council shall prescribe any conditions that it deems necessary to or desirable to the public interest. In making its approval, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be approved when the City Council finds that each and every one of the following apply:
  - 1. That there are special circumstances or highly unique conditions affecting the property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land.

2. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the vicinity in which the development site is situated.
  3. That the granting of the variance will not increase the flood hazard or flood damage potential.
  4. That the use proposed by the applicant would not result in a stage increase violating the requirements of Minnesota Statutes, Chapters 104 and 105, as may be amended, and any applicable requirements imposed by the Federal Emergency Management Agency.
  5. That the variance is to correct inequities resulting from an extreme physical hardship such as topography.
  6. Hardship relating to economic difficulties shall not be considered for the purpose of granting a variance.
  7. That the hardship is not a result of an action or actions by the owner, applicant or any agent thereof.
- B. Procedure. The procedures for processing variance applications shall comply with the applicable provisions of the St. Francis Zoning Ordinance, as may be amended.

**11-03-7: PREMATURE SUBDIVISION:** Any concept plan, preliminary plat, final plat deemed premature pursuant to the following criteria shall be denied by the City Council:

- A. Conditions for Establishing a Premature Subdivision. A subdivision may be deemed premature should any of the following conditions be found:
1. Inconsistency with the Comprehensive Plan including any of the following:
    - a. Land Use Plan.
    - b. Transportation Plan.
    - c. Utility (sewer and water) plans.
    - d. Stormwater Management Plan.
    - e. Capital Improvement Plan.
    - f. Growth management policies.
  2. Inconsistency with Urban Development Policies. A proposed urban subdivision shall be inconsistent with the following policies of the City if:

- a. The urban subdivision is not located within the utility service area or the staged growth area as established by the City's Comprehensive Plan.
  - b. The cost of utilities and street extensions is not covered by one or more of the following:
    - (1) One hundred (100) percent of the street and utility costs are privately financed by the developer.
    - (2) The cost of regional and/or oversized trunk utility lines can be financed by the City when recommended by the City Engineer.
    - (3) The cost and timing of the expenditure of City funds is consistent with the City's Capital Improvement Plan.
  - c. The developer payments will offset additional costs of utility installation or future operation and maintenance.
3. Roads or Highways are inadequate to serve the Subdivision. A proposed subdivision shall have inadequate roads or highways when:
- a. Roadways which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, and when, with due regard to the advice of The County and/or the Minnesota Department of Transportation, said roads are inadequate for intended use.
  - b. The traffic volume generated by the proposed subdivision would create unreasonable highway congestion or unsafe conditions on highways existing at the time of the application or proposed for completion within the next two years.
  - c. The traffic generated by the proposed subdivision requires City street improvements that are inconsistent with the St. Francis Capital Improvement Plan.
4. Water Supply. A proposed subdivision shall be deemed to have an inadequate water supply when:

- a. The City water system has inadequate wells, storage, or pipe capacity to serve the subdivision.
  - b. The water utility extension is inconsistent with St. Francis water plans and/or does not offer the opportunity for water main looping to serve the urban subdivision.
  - c. The extension of water mains does not provide adequate water pressure for personal use and fire protection.
  - d. For rural subdivisions, the site cannot demonstrate the capabilities to provide for access to private water supplies sufficient for the needs of the proposed subdivision.
5. Waste Disposal Systems. A proposed subdivision shall be deemed to have inadequate waste disposal systems when:
- a. The urban sewerer subdivision is not located inside the City's utility service area.
  - b. The City has insufficient utility service area and pipe capacity to serve the subdivision if developed to its maximum density.
  - c. The subdivision will result in a sewer extension inconsistent with St. Francis Sewer Plan and Capital Improvement Plan.
  - d. For rural subdivisions, the site cannot demonstrate the capabilities to provide for a primary and alternate septic site on each parcel to be created.
6. Lack of Adequate Drainage: A condition of inadequate drainage shall be deemed to exist if:
- a. Surface or subsurface water retention and runoff are such that it constitutes a danger to the structural security of the proposed structures.
  - b. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.
  - c. The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.

- d. Factors to be considered in making these determinations may include: average rainfall for the area; the relation of the land to floodplains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.

**11-03-8: PLANNED UNIT DEVELOPMENT (PUD).** In recognition of changing trends, techniques and materials in the process of urban development, the City Council and Planning Commission shall provide flexible means to permit development flexibilities by planned unit development (PUD), as established by the St. Francis Zoning Ordinance. The PUD shall be reviewed and judged in accordance with applicable provisions of the City Zoning Ordinance. Each application for PUD shall be considered as an individual case and shall be reviewed in terms of its land use, circulation and traffic patterns, population and marketability, construction design, and timing.

**11-03-9: COMMON INTEREST COMMUNITIES (CIC) PLATS:** All Common Interest Community plats shall provide a master plan for the project to include building/unit placement for all units within the project including future phases. All units shall be required to be numbered consecutively throughout the development starting with "Unit 1". Said numbering system shall then continue throughout the development utilizing the numbering system identified by the master plan, even if certain buildings are constructed out of order.

## CHAPTER 4 - ADMINISTRATIVE SUBDIVISION

### SECTION

- 11-04-1: Qualification
- 11-04-2: Application
- 11-04-3: Submittal Requirements
- 11-04-4: Procedure
- 11-04-5: Recording

**11-04-1: QUALIFICATION:** The following circumstances may be considered an administrative subdivision:

- A. In the case of a request to divide a portion of a lot where the division is to permit the adding of a parcel of land to an abutting lot so that no additional lots are created and both new lots conform to minimum area requirements of the St. Francis Zoning Ordinance.
- B. In the case of a request to combine two (2) existing platted lots.
- C. In the case of a request to divide a base lot, which is a part of a recorded plat upon which has been constructed a two family dwelling, townhouse, or quadraminium, where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will not cause any of the unit lots or structure to be in violation of this Chapter, the Zoning Ordinance, or the State Building Code.
- D. The subdivision of multiple tenant commercial and industrial buildings in conformance with any applicable provisions of the St. Francis Zoning Ordinance.

**11-04-2: APPLICATION:** Whenever any subdivision of land is proposed, before any contract is made for the sale of any part of such subdivision, and before any permit for the erection of a structure on such proposed subdivision shall be granted, the subdividing owner or his authorized agent, shall file an application and secure approval of an administrative subdivision. The administrative subdivision application shall be considered to be officially filed when the City Zoning Administrator or designee has received the application and has determined that the application is complete.

**11-04-3: SUBMITTAL REQUIREMENTS:**

- A. Complete application form.
- B. Application fee.
- C. Acreage calculations for the existing and proposed lots.
- D. A certificate of survey (full size, 11" x 17" reduction, and electronic copy) prepared by a licensed land surveyor identifying the following:
  - 1. Scale (engineering only) of one (1) inch equals no more than one hundred (100) feet.
  - 2. Topography with two (2) foot contours.
  - 3. Name and address, including all telephone numbers, of legal owner and/or agent of property.
  - 4. North point indication.
  - 5. Boundaries, dimensions, and area of existing lots being subdivided and new lots to be created.
  - 6. Legal descriptions of existing parcel and legal description of proposed new lots.
  - 7. Easements of record.
  - 8. Water courses including delineated wetlands. The ordinary high water level (OHWL) of any DNR protected waters, 100 year flood elevations of all watercourses (wetlands, ponds, lakes, streams, etc.). The 500 year flood elevation shall be identified when required by the City Engineer.
  - 9. All encroachments, easements, or rights-of-way encumbering the property.
  - 10. Existing buildings, structures, and improvements within the parcel to be platted and those one hundred (100) feet outside the boundaries of the subject parcel.
  - 11. Locations, widths and names of all public streets, rights-of-way or railroad rights-of-way showing type, width and condition of the improvements, if any, which pass through and/or are within one hundred (100) feet.

12. Proposed driveway locations and locations of existing driveways within one hundred (100) feet.
13. Location of any abandoned wells and confirmation of their being sealed.
14. The toe and top of any bluffs.
15. Additional data determined appropriate by the Zoning Administrator or designee to ensure compliance with City requirements.
16. Drainage and utility easements, minimum ten (10) feet wide, along all lot lines. These easements may be centered on a lot line shared between lots created by the Administrative Subdivision.
17. A copy of percolation tests and soil borings for all lots if required by the City Engineer.
18. The existing and proposed lot corners shall be staked at the site for review by the Zoning Administrator or designee.

**11-04-4: PROCEDURE:**

- A. A development application form with required fees shall be submitted to the City of St. Francis.
- B. The Zoning Administrator shall request input by the City's planning, engineering, and legal staff, as appropriate, and shall forward copies of the application to agencies and utility companies responsible for review of the application.
- C. Administrative subdivision of land abutting upon any existing or proposed trunk highway, county road or highway or county state-aid highway shall be subject to review of the Minnesota Department of Transportation and/or County Highway Department. Written notice and a copy of the proposed administrative subdivision shall be filed with the Minnesota Department of Transportation and/or County Highway Department for review and comment. Final action on an administrative subdivision shall not be taken until the minimum thirty (30) day review period has elapsed or until all referenced parties have signed off, whichever first occurs.
- D. The Zoning Administrator shall have authority to request supportive information pertinent to the administrative subdivision. Failure to provide the necessary supportive information may be grounds for denial of the request.



- E. Decision. The Zoning Administrator shall reach a decision on the requested administrative subdivision within one hundred twenty (120) days of complete application, unless the applicant agrees to an extension of the review period.
1. The Zoning Administrator may approve the administrative subdivision with conditions that shall be met to ensure the administrative subdivision is compliant with the regulations of the St. Francis Subdivision and Zoning Ordinances, as may be amended, and other applicable requirements.
  2. The Zoning Administrator shall prepare findings and deny a subdivision if the administrative subdivision is found to be premature as defined by the criteria of Section 11-4-7 (Premature Subdivision) of this Ordinance or fails to comply with regulations of the St. Francis Subdivision and Zoning Ordinances, as may be amended, or other applicable requirements.
  3. Decision Appeal. The applicant may appeal an administrative subdivision denial following the appeal procedure outlined in the St. Francis Zoning Ordinance.
  4. Prior to certification by the City of the approval of the administrative subdivision, the applicant shall supply the deed(s) granting to the City the easements and/or right of way required in Section 11-4-4 above.

**11-04-5: RECORDING:**

- A. If the administrative subdivision is approved by the Zoning Administrator, the applicant shall record the deed, and the accompanying survey, in the Office of the County Recorder within sixty (60) days after the date of approval, otherwise the approval of the administrative subdivision shall be considered void.
- B. When the land for which the administrative subdivision abuts a State highway, County road, or County highway, a certificate or other evidence showing submission of the administrative subdivision to the Minnesota Department of Transportation and/or County Highway Department shall be filed with the County Recorder of Deeds, with the administrative subdivision.

## CHAPTER 5 - CONCEPT PLAN

### SECTION

- 11-05-1: Concept Plan
- 11-05-2: Information Required for Concept Plan
- 11-05-3: Filing and Review of Application
- 11-05-4: Determination of Requirement for Environmental Review

**11-05-1: CONCEPT PLAN:** While not always a formal requirement developers are encouraged to prepare a concept plan depicting the subdivision proposal for informal review prior to filing a formal preliminary plat application. On the basis of the concept plan, the City shall informally advise the developer as promptly as possible of the extent to which the proposed subdivision generally conforms to the design standards of this Ordinance. Concept plan review does not convey any legal development rights to the applicant. Concept plans are required for all Planned Unit Developments, Subdivisions with Variance, any subdivision resulting in six (6) or more parcels, or any subdivision that results in new right-of-way dedication.

**11-05-2: INFORMATION REQUIRED FOR CONCEPT PLAN:** The concept plan shall include large scale, reduced scale (11" x 17"), and electronic copies of the following information (number of copies to be determined by the Zoning Administrator):

- A. Name, address, and all telephone numbers of developer/owner.
- B. Date of plan preparation and dates of revision.
- C. Scale of plan (engineering scale only: one (1) inch equals one hundred (100) feet).
- D. North arrow indication.
- E. Legal description.
- F. Property location map illustrating the site location relative to adjoining properties and streets.
- G. Scaled drawing (engineering scale only) illustrating property boundaries and approximate boundaries of any significant constraints such as ponds, wooded areas, wetlands, or bluffs.
- H. Drawing showing conceptual street and lot layout.

- I. Proof of ownership or legal interest in the property in order to make application.
- J. Current and proposed land use and zoning.
- K. Evaluation by the applicant that the subdivision would not be determined to be premature pursuant to the criteria outlined by the Comprehensive Plan and Subdivision Ordinance.
- L. Additional information, pursuant to this section, as required by the Zoning Administrator.

**11-05-3: FILING AND REVIEW OF APPLICATION:**

- A. Procedure:
  - 1. An applicant shall meet with City staff to discuss a proposed development and investigate the City requirements for pursuing a development application. The pre-application meeting shall be scheduled with the Zoning Administrator in advance.
  - 2. The City recommends the property owner/applicant hold a neighborhood meeting for informal comment and feedback prior to submitting a formal concept application.
  - 3. A development application form for concept plan along with the associated information and fee established by the City Council shall be submitted to the City of St. Francis.
  - 4. The Zoning Administrator shall submit copies of the concept plan and associated information to other staff, committees, consultants, or agencies as appropriate.
  - 5. At the applicant's request, the Zoning Administrator shall forward the concept plan submittals to the City's advisory boards and City Council for their consideration at regularly scheduled meetings to solicit informal review and comment on the project's acceptability in relation to the City's Comprehensive Plan and development regulations. The applicant or designee shall be present at all meetings with advisory boards and the City Council.
- B. Development Rights: Concept plan review shall not convey any legal development rights to the applicant.

**11-05-4: DETERMINATION OF REQUIREMENT FOR ENVIRONMENTAL REVIEW:**

- A. The Zoning Administrator shall review the concept plan and shall determine if the project crosses thresholds for a mandatory Environmental Assessment Worksheet (EAW), Environmental Impact Statement (EIS), or Alternative Urban Area-Wide Review (AUAR) documents pursuant to Minnesota Rules or shall determine if the City will require elective environmental documents for the project. If such documents are required, the Zoning Administrator shall notify the developer of any applicable environmental review requirements.
- B. In addition to the standard requirements, an escrow deposit shall be submitted by the applicant to cover City costs for preparing or reviewing and administering any necessary EAW, EIS or AUAR or environmental documents the City chooses to require.
- C. Environmental review under this Section, or other State of Minnesota mandated process, shall terminate the review schedule for the purposes of Minnesota Statutes Section 15.99. The City's review schedule shall re-start upon resubmission of a complete application including the results of the environmental review process.

## CHAPTER 6 – PRELIMINARY PLAT

### SECTION

- 11-06-1: Preliminary Plat
- 11-06-2: Information Required for Preliminary Plat
- 11-06-3: Determination of Requirement for Environmental Review Documents
- 11-06-4: Additional Information Required
- 11-06-5: Filing and Review of Application

#### **11-06-1: PRELIMINARY PLAT:**

- A. After the completion of the concept plan process, or in cases where Concept Review is not required, the owner or developer shall file with the City of St. Francis an application for preliminary plat. The preliminary plat stage is the point in the process that all information pertinent to the proposed development is furnished by the developer for review by the City Staff, City advisory committees, and the City Council, any other applicable agencies, and the public (through the public hearing process). The information provides a basis for approval or denial of the application. The information submitted in the application shall address both existing conditions and changes proposed to occur during and after development. The preliminary plat is a plan depicting how property is proposed to be subdivided and developed.
- B. Additional information or modifications may be required by the City Staff, City advisory committees, or City Council and additional information may be requested during the review process. In certain cases, some information required by these standards may not be appropriate or may need to be modified in order to provide an adequate basis for making a decision.

**11-06-2: INFORMATION REQUIRED FOR PRELIMINARY PLAT:** Preliminary plat information is typically furnished on plan sheets. However, some information is more appropriately submitted in other forms. The plat, and associated information, shall be submitted in a form that is legible, organized and understandable. The preliminary plat application shall consist of maps and accompanying documents. An owner or applicant shall submit large scale, reduced scale (11" x 17"), and electronic copies of the following information (number of copies to be determined by the Zoning Administrator):

- A. Boundary and topographic survey prepared by a licensed land surveyor identifying the following:
  - 1. Scale (engineering only) one (1) inch equals not more than one hundred (100) feet.

2. North point indication.
3. Existing parcel boundaries to be platted with dimensions and area.
4. Existing legal description.
5. Easements of record.
6. Delineated wetland boundaries, to include the ordinary high water level (OHWL) of any lakes or Department of Natural Resources (DNR) waters. Floodplain as shown on Federal Emergency Management Agency (FEMA) FIRM map.
7. Floodplain as shown on Federal Emergency Management Agency (FEMA) FIRM map.
8. All encroachments.
9. Existing topography, buildings, structures and improvements within the parcel to be platted and those within one hundred (100) feet outside the boundaries of the subject parcel.
10. Location, widths and names of all public streets or rights-of-way showing type, width and condition of the improvements, if any, which pass through and/or are within one hundred (100) feet.
11. The outside boundary of the subject property is to be clearly marked with survey monuments and indicated on the drawing.

B. Resource Inventory identifying the following:

1. Topographic contours at two (2) foot intervals including contours covering a minimum of two hundred (200) feet of adjacent properties and sufficient to identify tributary areas of watersheds draining onto or through the site. Spot elevations at the overflow point of basins and for existing infrastructure on or adjacent to the site such as pipe, inverts, manhole castings, curbs, etc. shall also be provided.
2. Soils report indicating soil type locations and identification of soil type characteristics such as hydric soils, agricultural capability, depth to bedrock, and hydraulic conductivity.
3. Hydrologic characteristics, including surface watercourses, floodplains, delineated wetlands, natural swales, and drainageways. Ordinary high

water level and 100 year flood elevations of adjoining water courses, lakes, wetlands, streams, etc. at the date of the survey and approximate high and low water elevations. The 500 year flood elevation shall be identified when required by the City Engineer.

4. General outlines of existing buildings, land use, and natural features such as waterbodies or wooded areas, roads, driveways, and property boundaries within three hundred (300) feet of the tract. This information shall be presented on an aerial photograph at a scale of no less than one (1) inch to two hundred (200) feet with a project overlay map.

C. Preliminary Plat identifying the following:

1. The proposed name of the plat which name shall not duplicate the name of any plat theretofore recorded in the county in which the plat is located and the City of St. Francis.
2. Date of application, name, address, phone numbers and applicable license or registration number of the owner, developer, agent, applicant, engineer, surveyor, planner, attorney or other principal involved in the development of the plat.
3. Proof of ownership or legal interest in the property.
4. Existing Comprehensive Plan land use and zoning designation within and abutting the proposed plat. Any zoning changes needed and reference to any zoning or similar land use actions that are pertinent to the proposed development.
5. Total acreage of the land to be subdivided and total upland area (land above the ordinary high water mark of existing wetlands, lakes and rivers).
6. Boundary line survey and legal description.
7. North arrow and graphic engineering scale of one (1) inch equals one hundred (100) feet.
8. Existing covenants, liens, or encumbrances.
9. Proposed lot lines, dimensions, and the gross and buildable acreage of all lots. When lots are located on a curve in a road or cul-de-sac, the lot width at the building setback line shall be shown. Proposed lot and block numbers.

10. Building pad, minimum building setbacks shown on each lot indicating dimensions of the setbacks. Location and width of buffer yards where the subdivision adjoins a collector or arterial street, railroad right-of-way or overhead transmission lines.
  11. Layout of streets, showing right-of-way widths, centerline street grades and approximate radii of all curbs, and names of streets. The name of any street heretofore used in the City or its environs shall not be used, unless the proposed street is an extension of an already named street, in which event the name shall be used.
  12. Access, right-of-way widths, driveways, and street classifications shall be consistent with City standards.
  13. Parks, trails, or other areas intended for public use or common ownership.
  14. Any additional information pursuant to this Ordinance as requested by the Zoning Administrator.
  15. Dates of plan preparation and revision dates.
  16. All delineated wetlands and the ordinary high water level (OHWL) of DNR protected waters.
- D. Preliminary Grading, Drainage and Erosion Control Plan (based upon a boundary and topographic survey) identifying the following:
1. Scale (engineering only) at one (1) inch equals one hundred (100) feet maximum.
  2. North point indication.
  3. Location of natural features including, but not limited to, tree lines, delineated wetlands, water courses, ponds, lakes, streams, drainage channels, ordinary high water level (OHWL) and 100 year storm elevations, bluffs, steep slopes, etc.
  4. Existing contours at one (1) foot intervals shown as dashed lines for the subject property.
  5. Proposed grade elevations at one (1) foot intervals shown as solid lines.
  6. Proposed plan for surface water management, ponding, drainage and flood control, including the normal water level and high water level of all



ponds and watercourses including those which drain beyond the boundaries of the subdivision.

7. Provision for groundwater management including sub-surface drains, disposals, ponding, and flood controls.
8. Location of all existing storm sewer facilities including pipes, manholes, catch basins, ponds, swales and drainage channels within one hundred (100) feet of the subject property. Existing pipe sizes, grades, rim and invert elevations and normal and high water elevations shall be included.
9. If the subject property is within or adjacent to a 100 year floodplain, flood elevation and locations shall be shown.
10. Spot elevations at drainage break points and directional arrows indicating site, swale and lot drainage.
11. Lot and block numbers, building style, building pad location and elevations at the lowest floor and garage slab for each lot.
12. Locations, sizes, grades, rim and invert elevations of all proposed stormwater facilities, including ponds, proposed to serve the subject property.
13. Phasing of grading.
14. The location and purpose of all oversize, non-typical easements.
15. All soil erosion and sediment control measures to be incorporated during and after construction shall be shown. All erosion and sediment control plans shall be in accordance with Minnesota Pollution Control Agency's Best Management Practices. Locations and standard detail plates for each measure shall be in accordance with City standards and included on the plan.
16. All re-vegetation measures proposed for the subject property shall be included on the plan, including seed and mulch types and application rates.
17. Preliminary drainage plan, including the configuration of drainage areas and calculations for one (1) year, ten (10) year, one hundred (100) year flood elevations. The 500 year flood elevation shall be identified when required by the City Engineer.

18. Layout of proposed streets showing centerline gradients, section widths, and typical cross sections.
  19. Date of plan preparation and dates of all revisions.
  20. Plan preparer (licensed engineer).
- E. Preliminary Utility Plan (based upon a boundary and topographic survey) identifying the following:
1. Scale (engineering only) at one (1) inch equals one hundred (100) feet maximum.
  2. The location, dimensions, and purpose of all easements.
  3. Location and size of existing sanitary sewers, water mains, culverts, or other underground facilities within the subject property and to a distance of one hundred (100) feet beyond the outside boundary of the proposed plat. Data such as grades, invert elevations, and location of catch basins, manholes and hydrants shall also be shown.
  4. Location and size of proposed sanitary sewers, water mains, culverts and other stormwater facilities, or other underground facilities within the subject project and to a distance of one hundred (100) feet beyond the outside boundary of the proposed plat. Data such as grades, invert elevations, and location of catch basins, manholes and hydrants shall also be shown.
  5. Water mains shall be provided to serve the subdivision by extension of an existing municipal system.
  6. Municipal sanitary sewer trunk facilities, laterals and service connections shall be designed and installed in accordance with the design standards approved by the City Engineer.
  7. The location of hydrants and valves for all proposed water mains.
  8. All other utilities shall be located and designed in accordance with the requirements of the City Engineer.
  9. Date of plan preparation and dates of all revisions.
  10. Plan preparer (licensed engineer).

**11-06-3: DETERMINATION OF REQUIREMENT FOR ENVIRONMENTAL REVIEW DOCUMENTS:**

- A. The Zoning Administrator shall review the preliminary plat and shall determine if the project crosses thresholds for a mandatory Environmental Assessment Worksheet (EAW), Environmental Impact Statement (EIS), or Alternative Urban Area-Wide Review (AUAR) documents pursuant to Minnesota Rules or shall determine if the City will require elective environmental documents for the project. If such documents are required, the Zoning Administrator shall notify the developer of any applicable environmental review requirements.
- B. An escrow deposit in addition to the standard requirements shall be submitted by the applicant to cover City costs reviewing and administering an EAW, EIS or AUAR.
- C. Environmental review under this Section, or other State of Minnesota mandated process, shall terminate the review schedule for the purposes of Minnesota Statutes Section 15.99. The City's review schedule shall re-start upon resubmission of a complete application including the results of the environmental review process.

**11-06-4: ADDITIONAL INFORMATION REQUIRED:**

- A. Evaluation by the applicant that the subdivision would not be determined to be premature pursuant to the criteria outlined in this Ordinance.
- B. Phasing Plan. For phased subdivisions, preliminary plats shall include a phasing plan that includes:
  - 1. The sequence of development and approximate areas, number of lots in each phase, total area and buildable area per phase, serially numbered with a description of each phase. Information shall be provided regarding the number of dwelling units, proposed improvements, and common facilities for each.
  - 2. Any trail/sidewalks within the approved phase of the preliminary plat shall be constructed along with streets and utilities and shall be clearly marked on a site map which shall be an attachment to all sales agreements for individual lots.
  - 3. A site grading plan that is coordinated with the phasing plan to avoid premature disruption of land or long term storage of excess materials.

4. A development agreement that includes a financial security to ensure completion of common facilities, trails, and landscaping shall be provided.
- C. Documents outlining the content of proposed conservation easements, restrictive covenants, deed restrictions, and establishment of homeowners associations for review. Where the plat is intended to include common open spaces, these documents shall address ownership and long-term maintenance of these open spaces areas.
- D. Information or easements showing how public utilities, drainage, and roads can be extended to serve adjacent properties.
- E. Landscape and screening plans showing landscape plantings for street boulevards, subdivision entrances, and buffer yards. Such plans shall specify plant locations, varieties, and sizes, and include elevations of monument signs and the location, ownership, and maintenance responsibilities of the monument signs.
- F. Park, trail, and sidewalk plans.
- G. If required by the City Engineer, a traffic study for the subdivision including traffic generation, traffic distribution of the existing capacity of existing streets, and resulting level of service (LOS) of existing streets at the subdivision build out.
- H. Examples of Housing Product. Illustration of building footprint, floor plans, and building elevations.
- I. Soil tests for areas where streets are proposed and other soil information as requested by the City Engineer.
- J. Three (3) copies of a wetland replacement plan shall be provided (if applicable).
- K. A build out plan (ghost plat) illustrating a realistic future urban lot and block layout and street system. Development represented by this ghost plat shall be consistent with the future land use as depicted in the Comprehensive Plan.
- L. Other information deemed appropriate by City staff.

#### **11-06-5: FILING AND REVIEW OF APPLICATION:**

- A. Procedure:
  1. Pre-Application Meeting. Prior to submitting a preliminary plat application (following a concept plan review, if one occurs), the property

owner/applicant shall meet with City staff to discuss the application. Through this meeting, the Zoning Administrator or designee may summarize the City's concept plan review comments and offer suggestions pertaining to additional information or design changes that may assist in expediting the preliminary plat review. The developer shall schedule the meeting with the City Administrator in advance.

2. Neighborhood Meeting. While not required, the City recommends that the property owner/applicant hold a neighborhood meeting for informal comment and feedback prior to preliminary plat application.
3. The person applying for preliminary plat approval shall submit to the City a complete application and all other information required according to the deadline and meeting schedule established by the City. The application shall address the informational requirements of Section 11-06-2 of this Ordinance and also any issues identified through the concept plan review procedure.
4. A complete preliminary plat application shall include:
  - a. A graphic and written description of the information requirements outlined in Section 11-06-2 of this Ordinance.
  - b. Applications shall be accompanied by a fee and processing escrow established by the City Council.
5. The Zoning Administrator, upon receipt of the application, shall notify the applicant in writing within fifteen (15) City business days if the application is found to be incomplete.
6. The Zoning Administrator shall refer copies of the preliminary plat to other staff, committees, consultants, or agencies as appropriate.
7. A preliminary plat abutting upon any existing or proposed trunk highway, County road or County State-aid highway shall be subject to review of the Minnesota Department of Transportation and/or the County Highway Department, as appropriate. Written notice and a copy of the proposed preliminary plat shall be filed with the Minnesota Department of Transportation and/or the County Highway Department for review and comment. Final action on a preliminary plat shall not be taken until the minimum thirty (30) day review period has elapsed.
8. Upon receipt of a complete application, the Zoning Administrator shall prepare a report and refer the application to the Park Commission and the Planning Commission.

9. The Planning Commission shall hold a public hearing on the proposed preliminary plat. Notice of the public hearing shall be published in the official newspaper designated by the City Council at least ten (10) days prior to the hearing. The City shall mail written notification of the proposed preliminary plat to property owners located within three hundred fifty (350) feet of the subject site. Timing of the mailed notice shall be the same as that for the published notice. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply has been made.
10. The Planning Commission shall take public testimony at the public hearing and evaluate the requested preliminary plat against the premature subdivision criteria of Section 11-03-7 of this Ordinance, the performance standards of this Ordinance, the performance standards of the St. Francis Zoning Ordinance, and other City requirements. The Planning Commission shall make findings and offer a recommendation for either preliminary plat approval or denial. The Planning Commission may offer a recommendation of approval with conditions necessary to satisfy City regulations.
11. The Zoning Administrator shall prepare a staff report of the findings and recommendations of the Planning Commission. The findings may include specific conditions of approval or findings related to denial of the plat.
12. The City Council shall take action on the application within one hundred twenty (120) days following delivery of a complete application in accordance with the regulations of this Ordinance, unless an extension is agreed to in writing by the applicant. If it approves the preliminary plat, the City Council may impose conditions it considers necessary to protect the public health, safety and welfare.
13. The City Council may deny or require modifications to a proposed preliminary plat when said plat fails to comply with any of the requirements of this ordinance, or other applicable regulations, including the zoning ordinance. In addition, the City Council may deny or require modifications to a proposed preliminary plat when the City Council finds that despite technical compliance with applicable ordinances, the plat design results in a likelihood of extraordinary public costs for future maintenance, extraordinary threat to existing natural or environmental features (including woodlands, wetlands, and other water resources), or the potential for public safety hazards that are not typical for subdivisions in St. Francis.

14. The City Council shall take action on the application which shall include findings of fact, and shall be entered in the proceedings of the City Council and transmitted to the applicant in writing. The lack of a simple majority Council vote to affirmatively approve a preliminary plat shall be a denial of the requested application.
15. If approved by the City Engineer, grading of the site included in the preliminary plat may occur after approval of the preliminary plat and the approval and recording of a development agreement for the grading work, including financial securities. Grading activities shall comply with the requirements of Section 11-06-2.D of this Ordinance.

## CHAPTER 7 - FINAL PLAT

### SECTION

- 11-07-1: Filing and Requirements for Application
- 11-07-2: Information Required for Final Plat
- 11-07-3: Review, Approval or Denial
- 11-07-4: Form and Content
- 11-07-5: Recording
- 11-07-6: Construction and Record Plans

**11-07-1: FILING AND REQUIREMENTS FOR APPLICATION:** Approval of a preliminary plat by the City Council is an acceptance of the general layout and indicates the developer may proceed toward final plat approval in accordance with the City Council approval of the preliminary plat, including conditions. The following filing and requirements of application shall be adhered to prior to review:

- A. A complete application for final plat shall be submitted no later than one (1) year after the date of approval of the preliminary plat, or a time as provided in the developers agreement. Otherwise, the preliminary plat approval shall be considered void, unless an extension is requested in writing, and for good cause, is granted by the City Council.
- B. The final plat applications for subsequent phases, as described by the approved phasing plan, shall be submitted within one (1) year of approval of the final plat for the previous phase. An extension may be requested in writing for City Council approval.
- C. In considering time extensions for final plat submittals, the City Council shall consider the reasons for the extension. If the developer is unable to fulfill the schedule of the approved phasing plan, the City Council may consider allocating to a different development project the utility service area that was committed to the next phase of the plat. The subject plat would then wait until the following year for final plat or utility service area approval for its next phase.
- D. The final plat application shall incorporate all the conditions of City Council approval of the preliminary plat. Formal application for final plat shall not be considered complete until such a time as a complete set of preliminary plat documents, incorporating all City Council conditions of approval, is received by the City. In all other respects, the final plat shall substantially conform to the preliminary plat, as approved. It may constitute only that portion of the approved preliminary plat which the developer proposes to record and develop at that time, provided that such portion conforms with all the requirements of this Ordinance



and further provided that the remaining phases of the development are platted as outlots.

- E. Approval of the engineering specifications required by this Ordinance pertaining to water supply, drainage, domestic wastewater, potable water, street lighting, gas, electric service, cable and telephone, grading, roadway standards, widths, and surfacing of streets, shall be completed by the City Engineer and appropriate development contracts prepared prior to approval of the final plat by the City Council.

#### **11-07-2: INFORMATION REQUIRED FOR FINAL PLAT:**

- A. A large scale, reduced scale (11" by 17"), and electronic copies of the preliminary plat and of supporting documents illustrating all changes and conditions that were required as part of preliminary plat approval (number of copies to be determined by the Zoning Administrator). This revised preliminary plat will provide the historical record of the subdivision approval by which subsequent final plats shall be considered.
- B. One (1) up-to-date (within three (3) months) title insurance commitment for the property being subdivided, as may be required by the City Attorney.
- C. One (1) copy of any title declaration, conservation easements, deed restrictions, restrictive covenants, homeowner's association documents, or common interest community documents.
- D. Documents and information necessary to fulfill the conditions of approval of the preliminary plat.
- E. Final Plat General Information.
  - 1. Name of the subdivision. The first phase of a development shall be called out as the "First Addition." Subsequent phases shall be consecutively numbered.
  - 2. Location by section, township, range, county, and state as well as descriptive boundaries of the subdivision based upon an accurate traverse, giving angular and linear dimensions.
  - 3. Scale (engineering only) not larger than one (1) inch equals one hundred (100) feet.
  - 4. North point indication.

5. The location of monuments shall be shown and described. Monuments shall be at all property corners and at the ordinary high water level of all wetlands.
6. Location and accurate dimensions of all lots, outlots, streets, and other features. Lots and blocks shall be numbered.
7. A listing of the total area of each lot and outlot measured in gross square feet per lot, area per block and total area of the plat.
8. A listing of the lot width of all lots, measured at the front yard setback line.
9. The exact location, widths and names of all proposed streets.
10. The location and width of all easements to be dedicated.
11. Land dedicated as public park shall be labeled as outlot(s) on the final plat and provide City access. The deed for said outlot(s) shall be given to the City with the final plat.
12. Name and address of the registered surveyor of the plat with certification by such surveyor on the form required by Minnesota Statutes 505.03, as may be amended.
13. Statement dedicating all easements for installation and maintenance of utilities and drainage facilities over, under, and along the areas designated as drainage and utility easements, all of which provide City access.
14. Statement dedicating all streets or other rights-of-way to the public.
15. Final grading and construction plans shall be prepared and submitted in accordance with City standards.
16. Copies of permits from Department of Natural Resources (DNR), Corp of Engineers, Minnesota Pollution Control Agency (MPCA). Department of Health, and other agencies as applicable. Such permits shall be required as conditions of final plat approval.
17. Final stormwater management plan.
18. Final wetland report and mitigation plan.
19. Final tree preservation plan.
20. Development Contracts.

- a. The City Engineer shall have a development financial requirement worksheet prepared and attached to the development contract.
- b. The developer shall meet with the City staff to finalize the terms of the development contract.
- c. Upon finalization of the development contract, the City Administrator shall have the final copy of the contract signed by all appropriate parties. The development contract shall be recorded against the property.
- d. Financial securities shall be posted with the City as outlined in the development contract.
- e. Final grading and utility plans shall be approved by the City Engineer and made a part of the development contract.
  - (1) No grading shall be allowed until after approval of a preliminary plat and a development contract for the grading.
  - (2) No construction/installation of sanitary sewer or water facilities or streets shall be allowed until approval of a final plat and a development contract for the sewer, water, and streets.

F. Additional Final Plat Information.

- 1. Accurate angular and lineal dimensions for all lines, angles, and curvatures used to describe boundaries, streets, easements, areas to be reserved for public use, trees, and other important features. Lot lines to show dimensions in feet and hundredths.
- 2. An identification system for all lots and blocks.
- 3. True angles and distances to the nearest established street lines or official monuments.
- 4. Municipal, Township, County or section lines accurately tied to the lines of the subdivision by distances and angles.
- 5. Radii, internal angles, points and curvatures, and lengths of all areas.
- 6. Accurate location of all monuments. Pipes or steel rods shall be placed at the corners of each lot and at the edge of wetlands.

7. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision with the purposes indicated therein.
8. Certification by a registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown thereof exist as located and that all dimensional and geodetic details are correct.
9. Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat, and the dedication of streets and other public areas.
10. Approval by signature of City, Township, and County officials concerned with the approval of the plat.
11. Form for approval of the City Council as follows: Approved by the Council of the City of St. Francis, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed \_\_\_\_\_ (Mayor)

\_\_\_\_\_ (City Clerk)

**11-07-3: REVIEW, APPROVAL, OR DENIAL:** After the preliminary plat has been approved, a final plat shall be submitted for review as set forth in the subsections which follow.

- A. The final plat application shall be considered to be officially filed when the Zoning Administrator has received and examined the application and has determined that the application is complete.
  1. The following requirements shall be met before consideration of the final plat by the City Council:
    - a. The final plat shall substantially conform to the approved preliminary plat and phasing plan.
    - b. City Attorney approval of the status of title/property ownership related to the final plat.
    - c. Completed development contract including all required financial securities and timeframe for final plat and final grading completion.

- d. Conditions attached to approval of the preliminary plat shall be fulfilled or secured by the development contract, as appropriate.
    - e. All fees, charges, and escrow related to the preliminary or final plat shall be paid in full.
  - 2. The City staff receiving final plat copies shall, as appropriate, submit reports to the City Council within ten (10) working days, documenting and expressing their recommendation on the final plat.
  - 3. The City Council shall act on the final plat by motion. The motion shall include findings of fact supporting the approval or denial, and shall be entered in the proceedings of the City Council. The lack of a simple majority Council vote to affirmatively approve the final plat shall be a denial of the requested application.
  - 4. Sewer, water, and streets shall only be installed in the area included in the approved final plat. No construction/installation of sanitary sewer or water facilities or streets shall be allowed until:
    - a. Approval of a final plat.
    - b. Approval of a development contract addressing, among other things, sewer, water, and streets.
    - c. Recording of the development contract.
- B. The City Council may deny the subdivision if it makes any one (1) or more of the following findings:
- 1. The proposed subdivision is in direct conflict with adopted applicable general and specific Comprehensive Plans of the City.
  - 2. That the physical characteristics of this site, including but not limited to topography, existing vegetation, percolation rate, soil conditions, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention, are such that the site is not suitable for the type of development, design, or use contemplated.
  - 3. That the site is not physically suitable for the proposed density of development.
  - 4. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage.

5. That the design of the subdivision or the type of improvements are likely to cause serious public health and/or safety problems.
6. That the design of the subdivision or the type of improvements will conflict with easements of record or with easements established by judgment of a court.
7. That the proposed subdivision will not provide adequate extension of infrastructure including roads or utilities to surrounding property.
8. The proposed final plat is not in substantial conformance with the approved preliminary plat.

**11-07-4: FORM AND CONTENT:** The final plat shall be of the form and content as prescribed in the Minnesota Land Surveyors Association Plat Manual of Minnesota Guidelines, as may be amended, and by State Statute.

**11-07-5: RECORDING:**

- A. After approval of the final plat by the City Council, the developer shall submit three (3) full size mylar copies of the final plat, one (1) 11" x 17" reduction of the final plat and dedication page, and one (1) electronic copy in a format compatible with the City's Engineering Standards.
- B. After approval and execution of the development contract, the contract shall be recorded.
- C. The developer shall record the plat within ninety (90) days after the date of approval, otherwise the approval of the final plat shall be considered void, unless the developer requests an extension, in writing, and receives approval from the City Council. The subdivider shall, immediately upon recording, furnish the City Clerk with a print and reproducible tracing of the final plat showing evidence of the recording. No building permits shall be issued for construction of any structure on any lot in said plat until the City has received evidence of the plat being recorded by the county.
  1. When the land for which the final plat abuts a state highway, county road, or county state aid highway, a certificate or other evidence showing submission of the preliminary plat to the Minnesota Department of Transportation and/or the County Highway Department shall be filed with the County Recorder of Deeds, along with the final plat.

2. When the final plat includes outlots to be used for drainage or other City purposes, such outlots shall be dedicated to the City prior to the issuance of building permits and shall provide City access.
- D. Recording Final Plats of Multi-Phased Plats: The recording of final plats of multi-phased plats shall be addressed as part of the development contract.

**11-07-6: RECORD PLANS AND MAPPING:** Upon completion of construction of roads, sanitary sewer, water mains, storm sewer facilities, grading, and tree preservation, the developer shall submit to the City Engineer field marked construction plans showing changes in the work, and one (1) electronic copy of the original plans in a format compatible with the City's computer system. The City Engineer shall prepare record drawings at the developer's expense using the data provided as well as supplemental survey information to be gathered by the City Engineer. The City Engineer will also update City base and utility maps to include the new subdivision and infrastructure improvements at the developer's expense.

## CHAPTER 8 - DESIGN STANDARDS

### SECTION

- 11-08-1: Conformity with the Comprehensive Plan and Zoning Ordinance
- 11-08-2: Land Requirements
- 11-08-3: Blocks
- 11-08-4: Lots
- 11-08-5: Additional Standards For Lots in the Rural Service Area
- 11-08-6: Streets and Alleys
- 11-08-7: Easements
- 11-08-8: Public Utilities
- 11-08-9: Park Dedication
- 11-08-10: Tree Preservation

**11-08-1: CONFORMITY WITH THE COMPREHENSIVE PLAN AND ZONING ORDINANCE:** A proposed subdivision shall conform to the Comprehensive Plan, to related policies adopted by the City, and to the St. Francis Zoning Ordinance, as may be amended.

**11-08-2: LAND REQUIREMENTS:**

- A. Land shall be suited to the purpose for which it is to be subdivided. No plan shall be approved if the site is not suitable for the purposes proposed by reason of potential flooding, topography, adverse soil conditions, rock formations, or wetlands.
- B. Proposed subdivisions shall be coordinated with surrounding properties and/or neighborhoods, so that the City as a whole may develop efficiently and harmoniously.

**11-08-3: BLOCKS:**

- A. Length. The length, width, and acreage of blocks shall be sufficient to accommodate the size of lots required for the area by the zoning ordinance and to provide for convenient access, circulation, control and safety of street design. The maximum length of blocks shall be one thousand two hundred (1,200) feet and the minimum length six hundred (600) feet. Blocks over nine hundred (900) feet long may require pedestrian ways at least twenty (20) feet wide at their approximate center. The use of additional pedestrian ways to schools, parks, and other destinations may be required.



- B. Arrangement. A block shall be so designed as to provide two (2) tiers of lots unless it adjoins a major collector, arterial street, railroad, thoroughfare, watercourse or park or where topographic or other conditions render the block arrangement unreasonable.
- C. Block Depth. The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth, except where topography or other conditions render the block depth unreasonable.

**11-08-4: LOTS:**

- A. Area. The minimum lot area, width and depth shall not be less than that established by the St. Francis Zoning Ordinance in effect at the time of the preliminary plat application. Minimum lot area shall consist of buildable land exclusive of wetlands, utility transmission easements and pipeline easements that encumber lot development.
- B. Public Street Frontage. All lots shall have frontage on a public street that provides the required lot width at the minimum front yard setback.
- C. Butt Lots. Butt lots within subdivisions shall be discouraged. Where such lots must be used to fit particular design, they shall be platted at least twenty (20) percent wider than the average width of interior lots in the block.
- D. Side Lot Lines. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- E. Width. All lots shall have the minimum width measured at the minimum front yard setback.
- F. Flag Lots. Flag lots are prohibited.
- G. Single and Two Family Lot Access. All new single and two family urban lots shall be designed to receive direct access from a local street. Access to minor collectors is discouraged, but may be allowed if access to a local street is impractical. Direct lot access from an arterial or major collector street is prohibited.
- H. Commercial, Industrial, and Multiple Family Lot Access. New commercial, industrial, and multiple family lots fronting on an arterial or major collector street shall be designed to minimize the number of direct access points through the following methods listed in preferential order. If the highest preference is not possible, the next preference shall be utilized until an access method is possible.

1. Access from a local street.
  2. Frontage road serving multiple properties.
  3. Frontage driveway or connected parking lot with cross easements serving multiple properties.
  4. Shared driveways.
  5. One (1) driveway access, no closer than two hundred (200) feet to another driveway and that meets the City's minimum spacing standards from a street intersection. All driveways shall be reviewed for consistency with the City's access management guidelines.
- I. Setback Lines. Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the St. Francis Zoning Ordinance.
- J. Watercourses. Watercourses and buffers shall be contained within outlots.
- K. Grading for Drainage. Lots shall be graded so as to provide drainage away from building locations and shall conform to the approved final grading plan. Stormwater drainage from an improved lot shall not be directed at an adjoining property at a rate above a predevelopment condition except where drainage is directed to a designed drainage easement or stormwater management system.
- L. Natural Features. In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic places or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- M. Frontage on Two Streets. Double frontage, or lots with frontage on two (2) parallel streets shall not be permitted except where lots back on major collector or arterial streets, City or State highways, or where topographic or other conditions render subdividing otherwise unreasonable. Additional lot depth and a minimum twenty (20) foot wide landscaped buffer yard shall be provided where a lot backs onto a major collector or arterial street.
- N. Irregular Shaped Lots. On single family residential lots determined to be irregular in shape (e.g., triangular), the developer shall demonstrate to the City an ability to properly place principal buildings and accessory structures upon the site which are compatible in size and character to the surrounding area.

- O. Building Expansion. All single-family residential lots shall be designed in consideration of potentials for buildings accommodating garages, porches and decks, etc. without need for setback variance. Said buildings and structures are to be compatible in size and character with the surrounding area.
- P. Lot Remnants/Outlots. All remnants of lots below minimum lot size left over after subdividing a larger tract shall be added to adjacent lots rather than allowed to remain as unusable parcels. Outlots may be platted within a subdivision to delineate future development phases, commonly owned open spaces or land to be dedicated to the public for park, drainage and utility or other public purpose. The outlet shall be sized in a manner to accommodate its intended use. An outlot shall be platted into a lot and block prior to issuance of a building permit. No building permits shall be issued for an outlot except for City structures allowed as a recreational or utility component in an open space area.
- Q. Ground Slope Limitations. Subdivision design shall be consistent with limitations presented by steep slopes. Subdivisions shall be designed so that no construction or grading will be conducted on slopes steeper than twelve percent (12%) in grade, unless approved by the City Engineer.

#### **11-08-5: ADDITIONAL STANDARDS FOR LOTS IN THE RURAL SERVICE AREA:**

- A. All lots proposed to be serviced by an individual sewage treatment system shall provide a site evaluation to determine if said lot is suitable for the installation of an individual sewage treatment system in accordance with Minnesota Rules Chapter 7080. Lots which are unable to support an individual sewage treatment system shall not be permitted. The Site Evaluation shall be completed by a State Certified Individual Sewage Treatment System Designer.
- B. All lots must contain a one acre contiguous parcel of land at the proposed building site that meets the following physical characteristics:
  - 1. Within the one acre contiguous parcel there shall be a proposed building site with a minimum dimension of one hundred (100) feet by one hundred (100) feet. The proposed building site shall have at least a three (3) foot separation between the final surface elevation of the lot and the highest known ground water elevation. The highest know water table is to be determined by the presence of mottled soil in soil tests. The balance of the one acre shall not include any Type 1-8 Wetlands. Lots requiring fill material in order to meet the three (3) foot separation requirement shall provide the City with a grading plan. The grading plan shall note the location of the area to be filled, the location of the proposed individual sewage treatment system and alternate individual sewage treatment

system locations and borrow sites if applicable. Any material used as fill shall be in conformance with Uniform Building Code Standards. The City may also require compaction tests and a soils engineering report for any area that is filled.

2. The finished lot shall have an average slope of twelve (12) percent or less subject to review of the City Engineer.
  3. The proposed building site shall have soils with the structural capacity to support normal buildings, driveways and usable yards. Lot dimension requirements are as listed in the Zoning Chapter.
- C. On each newly created lot outside of the Urban Service Area there shall be an area preserved for the construction of two (2) additional drain fields. The area set aside for these drain fields shall be of a size and so located that drain fields can be constructed that will meet all standards of the Minnesota Department of Health and the Pollution Control Agency.

**11-08-6: STREETS AND ALLEYS:** The arrangement, character, extension, width, grade, and location of all streets shall conform to the St. Francis Engineering Manual and Comprehensive Plan. Such streets and alleys shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of stormwater, to public convenience and safety, and in relation to proposed uses of land served by the streets.

A. Streets.

1. Street Connections.
  - a. Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, topographic conditions, runoff of stormwater, public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.
  - b. The arrangement of streets in a new subdivision shall make provisions for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations approved by the City Engineer.

2. **Temporary Cul-de-Sacs.** In those instances where a street is terminated pending future extension in conjunction with future subdivision and more than one hundred fifty (150) feet between the dead-end and the nearest intersection, a temporary turn around facility shall be provided at the closed end, in conformance with cul-de-sac and applicable Fire Code requirements. The temporary cul-de-sac shall be placed inside a temporary roadway easement if it is located outside street right-of-way. At such time as such a street is extended, the acreage covered by the turn-around outside the boundaries of the extended street shall revert in ownership to the property owner fronting on the temporary turn-around. The temporary cul-de-sac shall be surfaced in bituminous and signed as a future through street to alert the public that the road is planned to continue into the next development upon future subdivision. Financial security shall be required for removal or restoration as determined by the City Engineer.
  
3. **Re-subdivision of Large Lots and Parcels.** When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate re-subdivision, with provision for adequate utility connections for such re-subdivision.
  
4. **Subdivisions Abutting Major Rights-of-Way.** Wherever the proposed subdivision contains or is adjacent to the right-of-way of a U.S. or State highway, County Road, or local collector street, provision may be made for a service street approximately parallel and adjacent to the boundary of such right-of-way; provided that due consideration is given to proper circulation design, setbacks from an intersection on the major rights-of-way, or for a street at a distance suitable for the appropriate use of land between such street and right-of-way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, and for lot depths.
  
5. **Widths.** Right-of-way widths and pavement widths (face to face) of curb shall be as follows:

<b>Classification</b>	<b>Right-of-Way</b>	<b>Pavement Width</b>
Major Collector/Parkway	100 feet min.	Determined by the City Engineer
Minor Collector	80 feet min.	40 feet
Local Street	60 feet min.	32 feet
Service Road	50 feet	28 feet
Cul-de-sac Street	60 feet min.	32 feet
Cul-de-sac Radius	60 feet min.	50 feet

6. **Street Intersections.** Insofar as practical, streets shall intersect at right angles, and in no case shall the angle formed by the intersection of two (2)

streets be less than sixty (60) degrees. Intersections having more than four corners shall be prohibited. Adequate land for future intersections and interchange construction needs shall be dedicated.

7. Deflections. When connecting street lines deflect from each other, or when a single street deflects at one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than five hundred (500) feet for arterials and three hundred (300) feet for collectors and all other streets. The City Council may allow greater or lesser sight distances and of such radii as the City Engineer shall determine for special cases.
8. Street Intersection Offsets. Street intersection jogs shall have a centerline off-set of one hundred fifty (150) feet or more when applied to minor streets and service streets. In all other cases they shall be avoided.
9. Tangents. A tangent of at least one hundred (100) feet shall be introduced between points of reverse curves of arterial and collector streets.
10. Cul-de-Sacs. Cul-de-sacs shall be designed to cover as short a distance as possible. The maximum length of a street terminating in a cul-de sac shall be five hundred (500) feet for developments in the Urban Service Area and one thousand (1,000) feet for developments in the Rural Service Area. The maximum length of a dead end street, that is intended to serve adjacent unsubdivided property that is suitable for development, shall be seven hundred fifty (750) feet for developments in the Urban Service Area and one thousand five hundred (1,500) feet for developments in the Rural Service Area. The distance of the street shall be measured along the centerline of the street from the intersection of origin to the end of the right-of-way. A cul-de-sac meeting City Code requirements shall be required at the end of all dead end streets. Dead end streets in the Rural Service Area may be increased in length if the development complies with the following performance standards:
  - a. The maximum density on the dead end street shall not exceed sixteen (16) residential units.
  - b. All streets within the development shall be bituminous.
  - c. A future street plan, noting the continuation of the dead end street to exiting street(s), shall be provided. All streets noted in the future street plan must be reasonable in their design and economically feasible. The distance from the end of the street to the nearest

existing street shall also be less than one thousand five hundred (1,500) feet.

- d. Secondary access and/or internal looping of the proposed streets shall be provided if site conditions permit.
- 11. Centerline Gradients. All centerline gradients shall be at least five-tenths (0.5) percent and shall not exceed eight (8) percent unless approved by the City Engineer.
- 12. Vertical Curves. Changes in grade shall be connected by vertical curves and shall meet the requirements for the design speed of the roadway.
- 13. Marginal Access Streets. Marginal access streets shall be so aligned that their use by through traffic is discouraged.
- 14. Service Streets. Where a subdivision abuts or contains an existing or planned major thoroughfare or a railroad right-of-way, the City Council may require a street approximately parallel to and on each side of the right-of-way for adequate protection of residential properties and to afford separation of through and local traffic. The service streets shall be located at a distance from the major thoroughfare 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. The distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- 15. Half Streets. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of this Ordinance; and except where the City Council finds it practical to require dedication of the other half when adjoining property is subdivided. In such cases, the developer shall provide an escrow in an amount determined necessary to construct the full street. Wherever there is a half street adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract prior to the granting of access.
- 16. Private Streets. Except as may be allowed through planned unit development, private streets shall not be approved nor shall public improvements be approved for any private streets.
- 17. Reserve Strips. Reserve strips controlling access to streets shall be prohibited except under conditions approved by the City Council.
- 18. Platting of Small Tracts. In the platting of small tracts of land fronting on a limited access highway where there is no convenient access to existing

entrances and where access from such plat would be closer than one-half (1/2) mile from an existing access point, a temporary entrance permit for a period not exceeding two (2) years may be granted. Provision shall be made in such plats for the connection of roads to neighboring land. As the neighboring land is platted and developed, and access becomes possible at a preferred location, such temporary entrance permits shall become void at the discretion of the City.

19. Access to Arterial and Collector Streets. Access of local streets onto arterial and collector streets shall be in accordance with the Engineering Manual.
20. Right-of-Way Dedication.
  - a. Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional right-of-way width and street reconstruction shall be provided within the subdivision to meet the standards of this Ordinance.
  - b. Additional right-of-way and roadway widths may be required by the Council to promote public safety and convenience when special conditions require it.
  - c. All proposed streets shown on the plat shall be in conformity to City, County and State plans and standards and be offered for dedication as public streets unless otherwise determined by the City Council.
21. Grading. The full width of the right-of-way of all streets and alleys dedicated in the plat shall be graded to the lines and cross sections as shown on the grading plan submitted to and approved by the City Engineer. Exceptions to the width of grading may be granted where topography or tree cover warrant.
22. Soil Investigation. To determine sub-grade soils classification and bearing capacity of the soils in the proposed development, a soil investigation report shall be prepared under the supervision of a soils engineer associated with a qualified soils testing service and be provided to the City Engineer. The report shall contain the design recommendation for street section based on seven (7) ton design. In proposed streets, soils investigation shall be performed at intervals not to exceed five hundred (500) lineal feet. The soil borings completed during the investigation shall be at least ten (10) feet in depth below the proposed finished grade and five (5) feet below the proposed elevations of utilities. Ground water levels shall be reported at each boring. Elevations shall be in mean sea level



datum. Locations of borings shall be measured in the field and accurately shown on the plans.

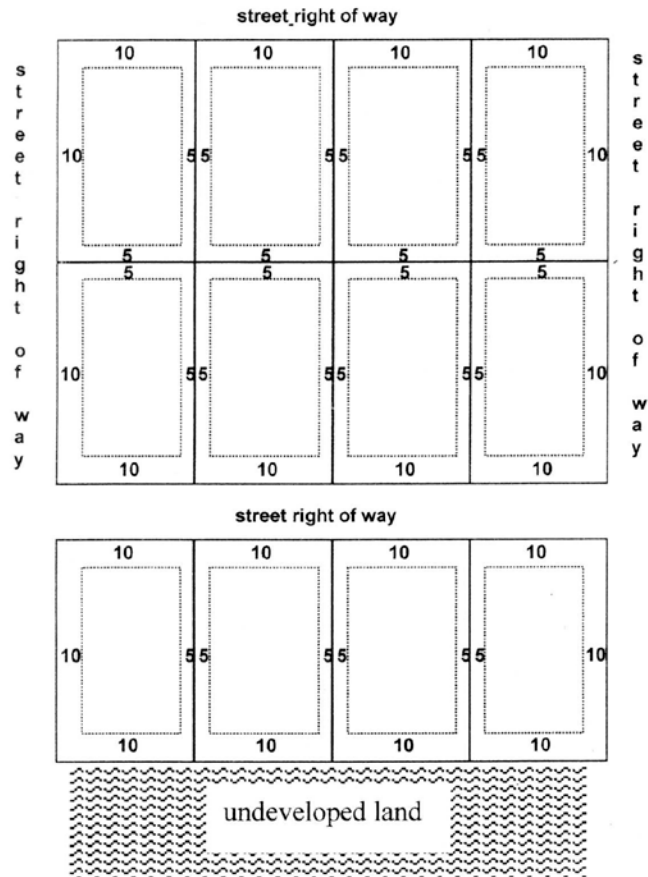
23. **Base and Surfacing.** All streets shall be improved with a concrete or bituminous surface. Pavement sections shall be in accordance with City standard detail plates. Except in the case of model homes, as may be approved by the City, no building permit shall be issued for any lot or parcel in a subdivision prior to the installation of the base course of bituminous. The wear course of bituminous shall be placed following the construction season or, if so designated by the City Council, up to two (2) years from the date of final plat approval. Exceptions to this provision may be granted by the City Council at their discretion as part of a development contract. This requirement may, for plats outside of the Urban Service Area, be modified or held in abeyance, or gravel-based, oiled or dust palliative treated streets may be substituted if recommended by both the Planning and Zoning Commission and the City Engineer, and approved by a four-fifths (4/5) majority of the Council. All roads to be constructed will be constructed per specifications by the City Engineer.
24. **Concrete Curb and Gutter.** All curb shall be concrete with integral gutter. The standard curb shall be Type B618 for Commercial and Industrial uses and Type D418 for Residential uses in accordance with the City Engineering Development Standards.
25. **Boulevards.** All boulevards shall be sodded. In the Rural Service Area the boulevards may either be sodded or prepared with adequate topsoil and seeded, as determined by the City Engineer.
26. **Sidewalks.** Concrete sidewalks are required on one (1) side of residential streets and may be required on both sides of the streets with the outside edge located one (1) foot from the property line, and on pedestrian ways as directed by the City Council. The Council may also require a bituminous trail to be installed in lieu of the sidewalk when appropriate. All sidewalks and trails shall be built to the specifications (including width) of the City Engineer as found in the City of St. Francis Engineering Development Standards. The City Council may waive this requirement in rural subdivisions or in areas where there may be limited need or feasibility. Sidewalks shall be installed prior to the installation of the bituminous wear course. The developer shall notify all lot purchasers of sidewalk construction plans.
27. **Driveways.** All concrete aprons and driveways shall be constructed from the curb to the property line. In cases where driveways are constructed after curbing and sidewalks are in place, the sidewalk for the width of the driveway shall be reconstructed to driveway specifications for thickness

but shall not alter the grade or lines of the sidewalk. Where driveways shall be permitted to access onto thoroughfare or collector streets, provisions shall be made for an on-site turn around area which would provide access to the thoroughfare or collector street in a forward direction. All driveway aprons between the back of curb and sidewalk shall be concrete within the Urban Service Area.

28. Lighting. Street lights conforming to City specifications shall be installed at the locations approved by the City Engineer. Easements may be required along property lines from utility easements on rear lot lines to rights-of-way so as to provide for a street light interval not to exceed three hundred fifty (350) feet.
29. Signs. All signs shall be installed by the developer in accordance with the Minnesota Manual on Uniform Traffic Control Devices and the City of St. Francis Engineering Development Standards.
30. Street Trees. In all subdivisions, street and yard trees shall be planted in accordance with applicable landscaping and screening requirements of the Zoning Ordinance, right-of-way ordinances and Engineering Manual.

#### **11-08-7: EASEMENTS:**

- A. Lot Lines. Drainage and utility easements at least ten (10) feet wide shall be provided on all lot lines (see diagram below). These easements may be centered on common rear and side lot lines. At a minimum, these easements shall be ten (10) feet wide along all lot lines on streets and along all boundaries with land not being developed. The easements shall provide continuity of alignment from block to block. In cases where utilities are necessary between lots, the minimum width shall be twenty (20) feet or larger as determined by the City Engineer. At deflection points, an easement for a pole line anchor shall be provided where necessary.



- B. Drainage Channels. Easements shall be provided along each side of the centerline of any waterway or drainage channel. The easements shall be of a sufficient width to provide for proper maintenance and protection of the waterway or channel, stormwater runoff, and the installation and maintenance of drainage systems. Such easements for drainage purposes shall be of a width determined by the City Engineer and shall provide City access.
- C. Utilities. Easements shall be provided for all sanitary sewer, water main, and stormwater facilities. The easements shall be of a sufficient width to provide for City access, proper maintenance, replacement, and protection of the facilities.

#### 11-08-8: PUBLIC UTILITIES:

- A. Watermain. Watermain size shall be a minimum eight (8) inch diameter, unless otherwise stated in the City's Comprehensive Plan. Watermain shall be poly vinyl chloride (PVC-C900) pipe and shall meet all the requirements of the City Engineer's Association of Minnesota standard utility specification for watermain and service line installation and American Water Works Association standard.

1. Mains shall be valved at intervals not to exceed eight hundred (800) feet. Valve type shall be in accordance with City standard specifications.
  2. "Dead end" mains shall be looped if exceeding the allowed length of a cul-de-sac. The distribution system may require installing a larger main to benefit the entire water service in the City. The City Engineer shall determine location and size of mains larger than eight (8) inches in residential areas. In commercial/industrial areas, watermain up to twelve (12) inches may be required to meet normal distribution required in the development. The cost of normal distribution size and appurtenances shall be the responsibility of the developer. Size of pipe over and above the normal shall be installed and financed in accordance with City policy. All pipe sizes shall be consistent with the City's Comprehensive Plan.
- B. Water Supply. Service connections shall be stubbed into the property line and new individual wells are not permitted as a primary water source for parcels created in the Urban Service Area. In all subdivisions outside the Urban Service Area, the subdivider shall either: (1) install a system providing each lot with an adequate supply of portable water, or (2) state on his preliminary plat that purchasers of individual lots will be required to install their own approved wells. Private wells shall comply with all requirements of State law.
- C. Fire Hydrants. Installation shall be pursuant to plans approved by the City Engineer and the St. Francis Fire Department and shall be located in accordance with Insurance Service Office (ISO) and International Fire Code standards. Hydrants shall be placed at the end of all "dead ends," cul-de-sacs and at street intersections. Hydrant type and installation shall be in accordance with City standard specifications and shall not exceed five-hundred (500) foot spacing in the Urban Service Area.
- D. Sanitary Sewer. Sanitary Sewer shall be a minimum of eight (8) inch pipe and shall be of a material approved for use in the City by the City Engineer. Main size will be determined by the sewage flow and grade in accordance with the City of St. Francis Sanitary Sewer Plan.
1. Size of pipe shall be determined by lateral service and/or trunk service. Lateral service shall be the responsibility of, and cost shall be borne by, the serviced property. The incremental cost to install trunk sewer in lieu of lateral sewer will be borne by the City for developments not deemed premature and provided sufficient funds are available in the trunk sewer fund.
  2. House Services. All services shall be installed in accordance with the City's standard specifications.

3. Electronic final design plans shall be submitted to the City in the format required by the City Engineer, typically AutoCAD, to allow the completion of record plans by the City Engineer.
- E. Sanitation. Water and sewer lines shall be installed and connected to the public system to serve all lots within the proposed subdivision under the provisions of applicable statutes and ordinances. The City Council shall require the installation of water and sewer mains, at the applicant's expense or under the provisions of applicable statutes and ordinances.
- F. Telephone, electric, cable, gas service lines and/or other public utilities are to be placed underground in accordance with the City's Right-of-Way Ordinance.
- G. Conduit shall be installed for all road crossings by the developer in cooperation with the utilities prior to street construction.

**11-08-9: PARK DEDICATION:**

- A. Dedication Required.
  1. In every plat, replat, or subdivision of land allowing development for residential, commercial, industrial or other uses or combination thereof, or where a waiver of platting is granted (but excluding simple lot line adjustments which do not create additional lots), or when required by Section 11-08-9 A 3, a reasonable portion of such land shall be set aside and dedicated by the owner or owners to the general public as open space for parks, playgrounds, trails, or public open space.
  2. It is hereby found and declared that, as a general rule, it is reasonable to require dedication of an amount of land equal in value to that percentage of the undeveloped land set forth in Section 11-08-9.B of this Ordinance. Said land shall be suitable for public use as parks and playgrounds for one of the afore described purposes and the City shall not be required to accept land which will not be usable for parks and playgrounds or which would require extensive expenditures on the part of the public to make usable. This dedication shall be in addition to the property dedicated for streets, alleys, or the public ways or easements.
  3. A developer of a mobile home park, multiple-family development, institutional, commercial or industrial development, for which no subdivision of property is required, shall comply with the above requirement if dedication of land for park and recreational purposes or the payment of fees in lieu thereof, prior to receiving the City approval of the

plot plan for such development; however, where formerly residential property is redeveloped at higher density, the required dedication shall be based only on the increase in number of housing units created by the development.

- B. Dedication Formula. The amount of land required to be dedicated by a developer shall be based upon the gross area of the subdivision or development which could be developed for residential, commercial, or industrial purposes, and shall be determined as follows:
1. Residential Development. The park dedication requirement for a residential subdivision or development shall be ten (10) percent of the gross area included in the subdivision or development.
  2. Industrial Development. The park dedication requirement for an industrial subdivision or development shall be five (5) percent of the gross area included in the subdivision or development.
  3. Commercial Development. The park dedication requirement for commercial subdivision or development shall be three (3) percent of the gross area included in the subdivision or development.
- C. Credit for Private Open Space. Where a private open space for park or recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, a credit of up to twenty-five (25) percent of the requirements of Section 11-08-9.B may be given, provided that the following conditions are met:
1. That such land area is not occupied by non-recreational buildings and is available for the use of all residents of the proposed subdivision.
  2. That required setbacks shall not be included in the computation of such private open space.
  3. That the use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of the property within the tract and which cannot be defeated or eliminated without the consent of the Council.
  4. That the proposed private open space is of a size, shape, location, topography, and usability for park or recreational purposes or contains unique natural features that are important to be preserved.
  5. That the proposed private open space reduces the demand for public recreational facilities to serve the development.

- D. Conformance with Comprehensive Plan. Land dedicated under this provision shall reasonably conform to the Comprehensive Plan. The Park Commission and the Planning Commission shall review proposed dedication of land or proposed payment of cash in lieu of land and shall recommend to the Council appropriate action. If the Comprehensive Plan of the parcel of land to be divided show public property in excess of that required in Section 11-08-9.B.1, the Planning Commission and the Council shall, before they approve or disapprove of the plat, consider the Comprehensive Plan and determine whether to take the necessary steps to acquire, by purchase or condemnation, all or part of the public property as shown on the Comprehensive Plan.
- E. Cash in Lieu of Dedication. The City shall have the option to require cash contributions in lieu of accepting dedication of land or the City may require a combination of land dedication and cash payment.
- F. Cash Payments in Special Fund. Contributions of cash payments in lieu of land dedication shall be placed in a special fund which shall be held and used by the City to acquire land for, or to improve parks, playgrounds, trails, public open space, or storm water holding areas or ponds.
  - 1. The City shall require a cash payment in lieu of park dedication whenever the proposed dedication of land for public use is not needed, is not suitable for the intended use, is too small for practical maintenance, or whenever cash payment would be more beneficial to the development of the overall park system that dedication of land within the property to be developed. If the City elects to accept a cash payment in lieu of land dedication, the following amounts will be paid:
    - a. In a Residential subdivision, the subdivider or developer shall pay the City the amount identified on the City's fee schedule per unit.
    - b. In an Industrial subdivision cash payments in lieu of park dedication shall be equal to five (5) percent of the market value of the subdivision land, but shall not exceed three times the park dedication fee for a single family residential unit as determined by the Council by resolution.
    - c. In a Commercial subdivision cash payments in lieu of park dedication shall be equal to three (3) percent of the market value of the subdivision land, but shall not exceed three times the park dedication fee for a single family residential unit as determined by the Council by resolution.

2. The estimate of market value under Sections 11-08-9.F.1.b and 11-08-9.F.1.c shall include value added to the property by utilities, streets, and other public improvements serving the land but shall exclude value added by all other improvements to the land.
3. If the City accepts park dedication, in an amount less than that specified in Section 11-08-9.B, the subdivider or owner shall pay in addition a fraction of the park dedication fee otherwise payable, the numerator of which is the difference between the percentage of land dedicated and the percentage of land required to be dedicated, and the denominator of which is the percentage of land to be dedicated.
4. If the City requires park dedication in excess of the amount required in Section 11-08-9.B, the City shall pay to the subdivider or owner the market value of the land in excess of the percentage of land required to be dedicated.
5. If any of the procedures for the determination of the park dedication fee is contained in this Subdivision are determined by any Court to be invalid for any reason whatsoever, the park dedication fee shall then be determined as follows:
  - a. The Planning Commission shall determine the market value of the land at the time of final plat or plot plan approval; and,
  - b. A percentage equal to the percentage of land to be dedicated as contained in Section 11-08-9.B, shall be applied to the market value and shall be the park dedication fee.

G. Time of Dedication or Cash Payment.

1. The requirements of this Subdivision shall apply at the time of the final approval of the plat, replat, subdivision, waiver of platting, or plot plan approval and shall apply to any plat, replat, subdivision, waiver of platting, or development requirements of this Subdivision receiving final approval after the effective date of this Subdivision.
2. No final plat shall be approved by the City until all amounts owed under this Subdivision for cash payment in lieu of park dedication have been paid to the City.
3. Notwithstanding Subd 11-08-9.G.2 of this Ordinance, the City may approve a development contract that specifies a different payment schedule where appropriate.



**11-08-10: TREE PRESERVATION:** All subdivisions shall be designed, constructed, and maintained in conformance with the following policy that existing, healthy trees on the site are preserved to the maximum extent feasible.

## **CHAPTERS 9-10 - RESERVED**

## **CHAPTER 11 – REQUIRED IMPROVEMENTS**

### **SECTION**

- 11-11-1: Required Public Improvements
- 11-11-2: Subdivision Monuments
- 11-11-3: Payment of Installation of Improvements
- 11-11-4: Utility Area and Unit Charges
- 11-11-5: Financial Guarantee
- 11-11-6: Development Contract
- 11-11-7: Improvements Completed Prior to Approval of the Final Plat
- 11-11-8: Trunk Facilities
- 11-11-9: Alternate Installation
- 11-11-10: Construction Plans, Inspection and Warranty
- 11-11-11: Maintenance of Improvements
- 11-11-12: Certificate of Occupancy

#### **11-11-1: REQUIRED PUBLIC IMPROVEMENTS:**

- A. No final plat shall be approved by the City Council until improvements of the land and construction of streets, sidewalks and trails, together with all other necessary facilities in the plat have been designed and satisfactorily arranged in accordance with regulations outlined for land improvement and construction and conditions of subdivision approval. The developer shall be required to provide the improvements listed in this Ordinance installed in accordance with the engineering policy, standards and specifications, as may be amended. All improvements shall be subject to inspection and approval by, and accomplished in such sequence as is determined by the City, via the City Engineer.
- B. In addition to construction on land, streets, and trails, the developer, as part of the final plat, shall install and pay for light poles, fixtures and street name signs as approved by the City and the utility company serving the location. Such installations shall be completed before the street is surfaced.

#### **11-11-2: SUBDIVISION MONUMENTS:**

- A. Durable iron monuments meeting the minimum requirements of State law shall be set at all angle and curve points on the outside boundary lines of the plat and also at all block and lot corners and at all intermediate points on the block and lot lines indicating changes of direction in the lines and witness corners. Monuments shall be placed by a Registered Land Surveyor. Monument placement shall meet

the current accepted standards of practice for surveying including the County Surveyor requirements.

- B. All lot corners and survey control monuments shall be set in accordance with State Statutes and shall be in place within one (1) year of the time the plat is recorded.
- C. Stakes showing the locations of easements shall be provided by the applicant upon request of the City. The stakes shall be wood laths and will be used only to insure the proper location of utilities on the easements. The stakes shall not be intended to be permanent survey monuments.
- D. All Federal, State, City, or other official benchmarks, monuments, or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat.
- E. To ensure that all irons and monuments are correctly in place following the final grading of a plat and construction of utilities, financial security will be required as determined by the City Engineer.

**11-11-3: PAYMENT FOR INSTALLATION OF IMPROVEMENTS:** All public improvements for new subdivisions shall be furnished and installed at the sole expense of the developer. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement (representing the benefit to such lands) to be allocated in accordance with City policies and shall be outlined in the development agreement.

- A. Prior to installation of any required improvements by the developer and prior to approval of the final plat, the developer shall enter into a development contract and provide cash escrow, letter of credit, or similar guarantees to the City related to performance, and/or for installation of public improvements, and/or developer to install improvements.
  - 1. The developer shall furnish and construct improvements at their sole cost and in accordance with plans and specifications and usual development contract conditions. This shall include provision for supervision of details of construction by the City Engineer and shall grant to the City Engineer authority to coordinate the work and improvements to be done under said development contract by any subcontractor authorized to proceed there under and with any other work being done or contracted by the City in the vicinity. The agreement shall require all public and private utility material standards and installation requirements to be met and shall be approved by the City Engineer.

2. The agreement shall require the applicant to make an escrow deposit or furnish an irrevocable letter of credit or certified check determined by the City. The amount of the deposit or security is to be based on the City Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. The deposit amount shall be equal to one hundred fifty (150) percent of the Engineer's estimate.
3. On request of the applicant, but at the sole discretion of the City, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat. In such event, and if evidence is presented that the described work and improvements have been paid for, the amount of the deposit may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat.
4. Guaranteed completion of the required improvements undertaken by the developer as approved by the City within a specified time after commencement of any construction in the subdivision, or the portion thereof less than the entire subdivision to be developed at any one time as approved by the City Council, provided that the City Council for good cause may extend the period of time in which the improvements must be installed.
5. If the required improvements are not completed within the specified time period or a period approved by the City Council as hereinabove provided, all financial securities shall be turned over to the City and applied toward the cost of the required improvements. Any balance after the improvements have been made shall be returned to the developer upon written request.
6. No developer shall be permitted to start work on any other subdivision improvements without special written approval of the City Council.

**11-11-4: UTILITY AREA AND UNIT CHARGES:**

- A. The following utility area and unit connection charges shall be collected with any new subdivisions and housing units in accordance with the public improvement financing policy of St. Francis, as may be amended:
  1. Trunk sanitary sewer area and connection charges.
  2. Trunk water main area and unit connection charges.

3. Storm sewer trunk area and unit connection charge.

**11-11-5: FINANCIAL GUARANTEE:**

- A. The development agreement requires the developer to make an escrow deposit or provide a certified check or irrevocable letter of credit as determined by the City. The escrow deposit, certified check or irrevocable letter of credit shall conform to the requirements of this section.

1. Escrow Deposit, Certified Check:

- a. If an escrow deposit or certified check is required, the escrow deposit or certified check shall be made with the City Clerk in a sum equal to the total costs for all improvements to be furnished and installed by the developer pursuant to the contract, which have not been completed prior to approval of the plat. The total costs shall include costs of inspection by the City.
- b. The City shall be entitled to reimburse itself out of said escrow deposit or for any cost and expense incurred by the City for completion of the work in case of default of the developer under said contract, and for any damages sustained on account of any breach thereof.
- c. Upon completion of the work and termination of any liability, the balance remaining in said escrow deposit shall be refunded to the applicant.

2. Irrevocable Letter of Credit.

- a. If the applicant is required to furnish an Irrevocable Letter of Credit, the sum shall be payable to the order of the City and delivered to the City in an amount as estimated by the City Engineer of all the improvements to be furnished and installed by the applicant pursuant to the contract, which have not been completed prior to the approval of the plat. The total costs shall include costs of inspection by the City.
- b. The Irrevocable Letter of Credit shall be approved as to form by the City Attorney and filed with the City Administrator.
- c. The City shall be entitled to reimburse itself out of said letter of credit for any cost and expense incurred by the City for completion

of work (including legal fees) in case of default of the applicant under said contract, and for any damages sustained on account of any breach thereof.

**11-11-6: DEVELOPMENT CONTRACT:**

- A. Prior to commencing grading or the installation of any required improvements and prior to approval of the final plat, the developer shall enter into a written development contract with the City requiring the developer to furnish, construct, and complete said grading and improvements in accordance with plans and specifications and usual agreement conditions and/or pay appropriate costs for improvements or other costs associated with the plat. Further, the contract shall provide for the development of any restrictions, covenants, easements, signage, park or open space requirements, or other conditions of the approved preliminary plat, and provide for proper execution, recording, and other action required. Approval of the development contract shall be by City Council resolution.
- B. For a project involving a phasing plan, the initial development contract shall allow for grading, wetland mitigation, and installation of stormwater management facilities on the entire site included in the approved preliminary plat. Such work may begin after approval of the preliminary plat but only after approval, execution, and recording of the development contract and payment of financial securities. Such work shall comply with the approved grading plan.
- C. The construction of streets, facilities for sanitary sewer and water, and other improvements beyond grading, wetland, and stormwater facilities shall not begin until approval of a final plat. Each subsequent phase shall require a separate development contract for improvements beyond those covered in previous contracts. Improvements in each phase shall not begin until the final plat for that phase is approved and the development contract for the phase is approved, executed, and recorded.
- D. The initial development contract (for grading) may address construction of streets and facilities for sanitary sewer and water for the first phase and list the financial securities and other requirements. However, the contract shall stipulate that the work on these improvements shall not begin until approval of the final plat for the first phase and the provision of all financial securities by the developer.
  - 1. Each approved and executed development contract shall be recorded. Each contract shall state that it is binding upon the developer, his/hers or their heirs, personal representative, and assigns. It shall stipulate that:
    - a. All improvements called for in the plat, or in any supplementary contracts, shall be complete within the time specified by the City.

- b. No private construction shall be conducted on any lots in the plat or filing of applications for building permits for construction on said lots, until all improvements required under City regulations for the proposed subdivision have been made or arranged in a manner provided for in this section.
- 2. The development contract shall include provisions for construction work inspection by the City and assurance that the developer will conform with current testing requirements and quality control procedures of the City of St. Francis. The developer shall provide documentation from a qualified testing laboratory and/or registered professional engineer that all improvements have been constructed in accordance with the requirements of the approved plans and specifications.
- 3. The development contract shall require the developer to provide a certification from a land surveyor or engineer that the land included in the plat has been graded in conformance with the approved grading plan prior to the issuance of building permits.
- 4. The development contract shall require the developer to provide a financial security to ensure payment of fees related to the subdivision and completion of all improvements.
- 5. A time schedule for completion of the work shall be determined by the City upon recommendation of the City Engineer after consultation with the developer and shall be reasonable in relation to the work to be done, the seasons of the year, and proper coordination with construction activity in the subdivision.
- 6. The development contract shall include action remedies in the event of default including:
  - a. The City may complete the improvements by contract or force and obtain reimbursement of its costs from the posted security deposit.
  - b. The City reserves the right to withhold building permits for violation of any terms of the development contract.

**11-11-7: IMPROVEMENTS COMPLETED PRIOR TO APPROVAL OF THE FINAL PLAT:** Improvements within a subdivision which have been completed prior to application for approval of the final plat, or execution of the contract for installation of the required improvements, shall be accepted as equivalent improvements in compliance with these requirements only if the City Engineer certifies that the existing



improvements conform to applicable standards and is evidence of payment for the work that has been completed and has been presented in such form(s) reasonably required by the City.

**11-11-8: TRUNK FACILITIES:** Where a larger size water main, sanitary sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility required shall be constructed. Additional costs shall be allocated as outlined in the development agreement.

**11-11-9: ALTERNATE INSTALLATION:** The City may elect to install any or all of the requirement improvements pursuant to a cash escrow agreement or other financial arrangements with the applicant.

**11-11-10: CONSTRUCTION PLANS, INSPECTION AND WARRANTY:**

- A. A minimum of four (4) full size copies, one (1) eleven (11) inch by seventeen (17) inch copy, and one (1) electronic copy of the construction plans shall be furnished to the City Engineer review and approval. Additional copies may be required by the City. Construction plans for the required improvements shall conform in all respects with all applicable ordinances and standards of the City. Construction documents shall be prepared, at the expense of the developer, by a professional engineer who is registered in the State of Minnesota, and said plans shall contain professional certification. Such plans, together with the quantities of construction items, shall be submitted to the City Engineer for approval and for an estimate of the total cost of the required improvements. Upon approval, they shall become a part of the development contract.
- B. Inspection. All required improvements on the site that are to be installed under the provisions of these regulations shall be inspected during the course of construction by the City Engineer at the applicant's expense, and acceptance by the City shall be subject to the City Engineer's certificate of compliance with the contract.
- C. The developer shall provide to the City a written warranty that all required improvements on the site meet or exceed all City standards and that such improvements have been inspected and tested in regards to the City standards. The developer is responsible for having all such inspections and testing completed at their expense.

**11-11-11: MAINTENANCE OF IMPROVEMENTS:** The developer shall be required to maintain all improvements in the subdivision or on the individual subdivided lots and provide for snow removal and maintenance of streets, if required, until acceptance of said improvements by the City Council in coordination with the development contract.

**11-11-12: CERTIFICATE OF OCCUPANCY:**

- A. No certificate of occupancy shall be issued by the Building Official for any building in the subdivision prior to all improvements outlined in the development contract having been installed. Exceptions to this provision may be granted by the City Council at their discretion as part of the development contract.
- B. Prior to issuance of a temporary certificate of occupancy, the property owner and prospective buyer, under a purchase agreement for the property, shall execute a right of access for City erosion control maintenance in a form provided by the City.

**CHAPTER 12 – RESERVED**

## CHAPTER 13 - ENFORCEMENT

### SECTION

- 11-13-1: Violations
- 11-13-2: Penalties
- 11-13-3 Application to City Personnel
- 11-13-4: Injunction

**11-13-1: VIOLATIONS:** The violation of any provision of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Ordinance shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to fine or imprisonment or both, as set forth in Minnesota Statutes plus, in either case, all costs of prosecution.

- A. Sale of Lots from Unrecorded Plats. It shall be a misdemeanor to sell, trade, or otherwise convey any lot or parcel of land as part of, or in conformity with, any plan, plat or replat of any subdivision or area located within the jurisdiction of the City of St. Francis, unless said plan, plat or replat shall have first been recorded in the office of the County Register of Deeds.
- B. Receiving or Recording Unapproved Plats. It shall be unlawful for a private individual to receive or record in any public office any plans, plats of land laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this Ordinance, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.
- C. Misrepresentations. It shall be a misdemeanor for any person owning an addition or subdivision of land within the City to represent that any improvement upon any of the streets, alleys or avenues of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the City, when such improvement has not been so constructed, supervised or inspected.

**11-13-2: PENALTIES:** Any person who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor. Each day during which compliance is delayed or such violation continues shall constitute a separate offense and may be prosecuted as such.

**11-13-3: APPLICATION TO CITY PERSONNEL:** The failure of any officer or employee of the City to perform any official duty imposed by this Ordinance shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

**11-13-4: INJUNCTION:** In the event of a violation or the threatened violation of any provision of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the City, in addition to other remedies, shall have the authority to institute appropriate civil action including injunction and other equitable processes to enforce the provisions of this Ordinance and, at the reasonable discretion of the civic court, shall recover reasonable court costs and attorney's fees that are incurred due to the enforcement of the subject violation.

## **CHAPTER 14 – SEVERABILITY, SUPREMACY & EFFECTIVE DATE**

### **SECTION**

- 11-14-1: Severability
- 11-14-2: Supremacy
- 11-14-3: Effective Date

#### **11-14-1: SEVERABILITY:**

- A. Every section, provision, or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.
- B. If any court of competent jurisdiction shall judge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other properties, buildings or structures.

#### **11-14-2: SUPREMACY**

- A. When any condition imposed by a provision of this Ordinance on the use of land or building or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other City ordinance or regulation, the more restrictive conditions shall prevail.
- B. This Ordinance is not intended to abrogate any easements, restrictions, or covenants relating to the use of land within the City by private declaration or agreement, but where the provisions of this Ordinance are more restrictive than any such easement, restriction, or covenant, or the provision of any private agreement, the provisions of this Ordinance shall prevail.

**11-14-3: EFFECTIVE DATE.**

Passed by the St. Francis City Council this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST:

By: \_\_\_\_\_  
\_\_\_\_\_, City Clerk

## **CHAPTER 20**

### **ANNEXING CITY OWNED LAND PURSUANT TO MINNESOTA STATUTES, SECTION 414.033, SUBDIVISION 2(1) PERMITTING ANNEXATION BY ORDINANCE**

#### **SECTION 20.01. ANNEXING CITY OWNED LAND PURSUANT TO MINNESOTA STATUTES, SECTION 414.033, SUBDIVISION 2(1) PERMITTING ANNEXATION BY ORDINANCE.**

**Subd. 1.** The City acquired the following described parcel on February 12, 2007 and is the fee owner of said land:

The East Half of the Southwest Quarter and the West Half of the Southeast Quarter, all in Section 22, Township 34 North, Range 24 West, Isanti County, Minnesota.

And,

The East Half of the Southeast Quarter of Section 22, Township 34 North, Range 24 West, Isanti county, Minnesota, except the east 910.00 feet thereof and also except that part of the Northeast Quarter of the Southeast Quarter of said Section 22 described as follows:

Beginning at the northwest corner of the east 910.00 feet of said East Half of the Southeast Quarter; thence on an assumed bearing of South 89 degrees 33 minutes 32 seconds West along the north line of said East Half of the Southeast Quarter, a distance of 218.41 feet; thence South 00 degrees 26 minutes 28 seconds East, a distance of 43.00 feet; thence South 43 degrees 29 minutes 17 seconds East, a distance of 40.00 feet; thence South 22 degrees 52 minutes 42 seconds East, a distance of 85.00 feet; thence South 06 degrees 25 minutes 47 seconds East, a distance of 48.00 feet; thence South 21 degrees 39 minutes 15 seconds East, a distance 80.00 feet; thence South 04 degrees 47 minutes 53 seconds East, a distance of 95.00 feet; thence South 21 degrees 02 minutes 28 seconds East, a distance of 39.00 feet; thence South 01 degrees 57 minutes 53 seconds West, a distance of 41.00 feet; thence South 21 degrees 45 minutes 41 seconds East, a distance of 70.00 feet; thence South 02 degrees 17 minutes 22 seconds East, a distance of 30.00 feet; thence South 15 degrees 56 minutes 05 seconds East, a distance of 52.00 feet; thence South 05 degrees 26 minutes 51 seconds East, a distance of 71.00 feet; thence South 24 degrees 41 minutes 57 seconds East, a distance of 83.00 feet; thence South 00 degrees 25 minutes 39 seconds East, a distance of 90.00 feet; thence South 29 degrees 21 minutes 41 seconds West, a distance of 55.00 feet; thence South 26 degrees 03 minutes 03 seconds East, a distance of 71.00 feet; thence South 63 degrees 07 minutes 13 seconds East, a distance of 24.00 feet, to the west line of said east 910.00 feet; thence North 00 degrees 25 minutes 39 seconds West, along said west line, a distance of 949.78 feet, to the point of beginning of the parcel of land excepted.

**Subd. 2.** The property described in Subdivision 1 of this Ordinance is currently located within Athens Township within the County of Isanti and is unincorporated property that is abutting the City of St. Francis and is not located within a flood plain or shoreland area.

**Subd. 3.** None of the property described in Subdivision 1 of this Ordinance is included within the limits of any city, or in any area that has already been designated for orderly annexation pursuant to Minnesota Statutes Section 414.0325.



**Subd. 4.** Pursuant to Minn. Stat. Sec. 414.033, Subd. 2(1), the City hereby declares that the land described in Subdivision 1 of this Ordinance is deemed to be urban or suburban in character or about to become so.

**Subd. 5.** Pursuant to Minn. Stat. Sec. 414.033, Subd. 2(1), the City hereby annexes said land to the City of St. Francis, State of Minnesota and hereby extends the corporate limits of the City of St. Francis, Minnesota to include the property described in Subdivision 1 of this Ordinance.

**Subd. 6.** The City of St. Francis will reimburse Athens Township for the loss of said taxable property in the amount of nine thousand two hundred one dollars and twenty five cents (\$9,201.25). This amount was calculated by taking the greater of the following formulas:

1. Utilizing the formula at repealed Minn. Stat. Sec. 414.036, the payment would be \$4,600.64 and was arrived at by taking the 2007 taxes for the township at \$1,840.25 and the applying the following: 90% is \$1,656.23, 70% is \$1,288.18, 50% is \$920.13, 30% is \$552.07 and 10% is \$184.03. Adding these amounts together results in a total payment of \$4,600.64.

2. Utilizing a payment equivalent to the 2007 taxes multiplied by five years would result in a total payment of \$9,021.25.

**Subd. 7.** The City is not aware of any special assessments assigned by the township to said property and any portion of debt incurred by the township prior to the annexation and attributable to said property to be annexed but for which no special assessments are outstanding. In the event that there are subsequently identified special assessments assigned by the township to said property and any portion of debt incurred by the township prior to the annexation and attributable to said property to be annexed but for which no special assessments are outstanding, the City will pay Athens Township for such amounts as noted in Subdivision 7 of this Ordinance.

**Subd. 8.** The amounts identified in Subdivisions 6 and 7 (if any) above are to be paid in substantially equal payments over a period of five (5) years.

**Subd. 9.** That the City Clerk of the City of St. Francis, State of Minnesota, is hereby authorized and directed to file a copy of this Ordinance with the Municipal Boundary Adjustment unit of the Minnesota Office of Administrative Hearings, the Minnesota Secretary of State, the Isanti County Auditor and the Athens Township Clerk.

**SECTION 20.02. EFFECTIVE DATE.** This Ordinance shall be in full force and effect and final upon the date this Ordinance is approved by the Office of Administrative Hearings, but no earlier than thirty (30) days following its publication.

Source: Ordinance 108, SS  
Effective Date: 04-16-2007

## CHAPTER 1

### TITLE / RULES / APPLICATION

#### SECTION:

10-1-1:	Title
10-1-2:	Purpose and Intent
10-1-3:	Legislative Authority
10-1-4:	Rules
10-1-5:	Application
10-1-6:	Interpretation

**10-1-1: TITLE.** This Ordinance shall be known, cited and referred to as the “St. Francis Zoning Ordinance” except as referred to herein, where it shall be known as “this Ordinance.”

**10-1-2: PURPOSE AND INTENT.** The purpose and intent of this Ordinance is adopted for the intent and purpose to:

- A. Protect the public health, safety, morals, comfort, convenience and general welfare.
- B. Promote orderly development of the residential, commercial, industrial, recreational and public areas.
- C. Conserve the natural and scenic beauty and attractiveness of the City.
- D. Conserve and develop the natural resources in the City.
- E. Provide for the compatibility of different land uses and the most appropriate use of land throughout the City.
- F. Divide the area in the City into zones and districts regulating therein the location, construction, reconstruction, alteration and use of structures and land.

**10-1-3: LEGISLATIVE AUTHORITY.** This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Section 462.351 to 462.363.

**10-1-4: RULES.** The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The word “building” includes structure and dwelling.
- B. The word “person” includes an individual, corporation, co-partnership, and association.
- C. The word “shall” is mandatory, and the word “may” is permissive.
- D. All measured distances expressed in feet shall be to the nearest twelfth of a foot.
- E. In the event of conflicting provisions, the more restrictive provisions shall apply.

**10-1-5: APPLICATION.**

- A. Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements prevail.
- B. No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose which is not in conformity with the provisions of this Ordinance.
- C. Whenever in any zoning district a use is not specifically allowed or specifically prohibited, the use shall be considered prohibited, unless the Zoning Administrator determines the proposed use is very similar to an allowed use. If the use is found to be very similar to an allowed use, the proposed use shall be allowed.
- D. The City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if a use which is neither allowed nor prohibited is acceptable and if so, what zoning district would be most appropriate and the conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, if appropriate, shall initiate an amendment to the zoning ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.
- E. 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 general welfare.

- F. The maintenance of certain standards is essential to insure compatible relationships between land uses within a community. All uses allowed, as either permitted or conditional uses within the City's various zoning districts shall conform to the following district provisions and regulations within this Ordinance.

**10-1-6: INTERPRETATION.** If any provision of this Ordinance is determined to be ambiguous, this Ordinance shall be interpreted in conformance with Minnesota law and in conformance with the expressed legislative purpose and intent. To this end, the following shall be determined:

- A. The public purpose of the standard with respect to which an interpretation is required.
- B. The actual impact of a proposed interpretation.
- C. The proposed interpretation will protect the health, safety, and general welfare of the community.

## SECTION 2

### RULES AND DEFINITIONS

#### SECTION:

- 10-2-1: Rules  
10-2-2: Definitions

**10-2-1: RULES:** The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and the future tenses, and the future the present.
- C. The word “shall” is mandatory while the word “may” is permissive.
- D. The masculine gender includes the feminine and neuter.
- E. All measured distances expressed in feet shall be to the nearest tenth of a foot.
- F. For terminology not defined in this Ordinance, the City Code, the Minnesota State Building Code, or the Webster’ s Dictionary shall be used to define such terms.

**10-2-2: DEFINITIONS:** The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

**ABUTTING:** Making contact with or separated only by public thoroughfare, railroad, or public utility right of way.

**ACCESSORY BUILDING, STRUCTURE, OR USE:** A subordinate building, structure, or use which is located on the same lot on which the principal building is situated and which is reasonably necessary and incidental to the conduct of the principal building or use.

**ADDITION:** A physical enlargement of an existing structure.

**AGRICULTURAL USE:** Those uses commonly associated with the growing of produce on farms, these include: field crop farming; pasture for hay, fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale of in season products grown on premises; and livestock raising and feeding, but not including fur farms, commercial animal feedlots, retail nurseries and garden centers, communal garden plots, commercial stables, and commercial kennels.

**ALLEY:** A public or private right of way which affords a secondary means of access to abutting property.

**ANIMAL FEEDLOTS:** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for feeding and rearing of poultry (poultry ranges), and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and zoos, shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots. Feedlots with fewer than 50 animal units as defined by the MPCA are considered an accessory agricultural use. Feedlots with greater than 50 animal units are considered to be commercial feedlots.

**ANTENNA RELATED:**

- A. Accessory and/or Secondary Use: Those antennas including radio and television receiving antennas, satellite dishes, TVROs (television receive only) two meters (2 m) or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment such as radio receivers, ham radio transmitters and television receivers that are customary and incidental to allowed principal uses within the various zoning districts of the City.
- B. Personal Wireless Service: A device consisting of metal, carbon fiber, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the support structure thereof.
- C. Public Utility Microwave: A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications, and including the support structure thereof.
- D. Radio and Television, Broadcast Transmitting: A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming, and including the support structure thereof.
- E. Radio and Television Receiving: A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the support structure thereof.
- F. Satellite Dish: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves

between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas and the support structure thereof.

- G. Satellite Dish Height: The height of the antenna or dish measured vertically from the highest point of the antenna or dish when positioned for operation, to the top of the foundation which supports the antenna.
- H. Short-Wave Radio Transmitting and Receiving: A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave radio communications, and including the support structure thereof.
- I. Support Structure: Any building or other structure other than a tower which can be used for location of antennas.
- J. Temporary Mobile: Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, also commonly referred to as cellular on wheels (COW).
- K. Tower: A self-supporting lattice, guyed or monopole structure constructed from grade which supports personal wireless service antennas. The term antenna tower shall not include amateur radio operators' equipment, as licensed by the FCC.

**APPLICANT:** The owner, their agent or person having legal control, ownership and/or interest in land for which the provisions of this Ordinance are being considered or reviewed.

**BASEMENT:** That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling. (See definition of Story.)

**BEST MANAGEMENT PRACTICES (BMPs).** Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling preventing and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices are published by the state or designated area-wide planning agencies. (Examples of BMPs can be found in the current versions of the Minnesota Pollution Control Agency's publications, "Protecting Water Quality in Urban Areas", and "Storm-Water" and "Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands", the United States Environmental Protection Agency's, "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices", (as a reference for BMPs) and the Minnesota Department of Transportation's, "Erosion Control Design Manual".

**BLUFFLINE:** A line along the top of a slope connecting the points at which the slope becomes more than twelve (12) percent. This applies to those slopes within the land use district which are beyond the setback provisions from the ordinary high water mark.

**BOULEVARD:** The portion of the street right-of-way between the curb and the property line.

**BREWERY:** A facility that produces beer, ale or other beverages made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

**BREWERY TAP ROOM:** An area accessory to a brewery for the on-sale consumption of malt liquor produced by the brewer for consumption on the premises.

**BREW PUB.** A restaurant with an accessory small brewery as licensed in Section 5-8-3 in the City Code.

**BUFFER:** The use of land, topography, difference in elevation, space, fences or landscape plantings to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights or other impacts.

**BUFFER YARD:** A strip of land utilized to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights, or other impacts.

**BUILDABLE AREA:** The portion of a lot remaining after required yards have been provided.

**BUILDING:** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING HEIGHT:** The vertical distance from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs. (Ord 181, SS, 4-21-13)

**BUILDING LINE:** A line parallel to a lot line or the ordinary high-water level at the required setback beyond which a structure may not extend.

**BUSINESS:** Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

**CAMPGROUND:** An area accessible by vehicle and campsites or camping spurs for tents and trailer camping.

**CANOPY:** An accessory roof-like structure, which is either attached to or detached from an allowable primary building; which is open on all sides, other than where attached; and,



which is located over and designed to provide cover for entrances, exits, walkways, and approved off-street vehicle service areas.

**CARPORT:** An automobile shelter having one (1) or more sides open continuously.

**CELLAR:** The portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

**CEMETERY:** A parcel or tract of land used or intended to be used for the burial of the dead including columbariums, crematories, mausoleums and mortuaries when operated within the boundaries of such cemetery.

**CHANNEL:** A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

**CHEMICAL DEPENDENCY TREATMENT CENTER:** A facility required to be licensed by the state or county that provides one or more persons with twenty-four (24) hour per day care, food, lodging, training, education, supervision, habilitation, rehabilitation, or treatment outside a person's own home for the purposes of relieving chemical dependency. Facilities are limited to those licensed and/or regulated by the Department of Human Services and the Department of Health.

**CITY ATTORNEY:** The person designated by the City Council to be the City Attorney for the City of St. Francis.

**CITY BUILDING OFFICIAL:** The person designated by the City Council to be the City Building Official for the City of St. Francis.

**CITY COUNCIL:** The governing body for the City of St. Francis.

**CITY ENGINEER:** The person designated by the City Council to be the City Engineer for the City of St. Francis.

**CLEAR CUTTING:** The removal of an entire stand of trees or similar vegetation.

**CLUB OR LODGE:** A nonprofit association of persons who are bona fide members paying annual dues, with the use of premises being restricted to members and their guests for receptions, social recreation, and other gatherings.

**COCKTAIL ROOM:** An accessory facility to a microdistillery for the on-sale consumption of distilled spirits produced on the premises as allowed by Minnesota Statutes as may be amended.

**COMMERCIAL RECREATION:** An establishment that provides an amusing or entertaining activity to the general public. Commercial recreation establishments include, but are not limited to, health clubs, skating rinks, water slides and other amusement

ridges, firearm ranges, miniature golf courses, arcades, bowling alleys, race tracks, billiard halls and similar uses. Commercial recreational uses may be further distinguished as indoor or outdoor uses.

**COMMERCIAL USE:** The principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services, including, but not limited to, the following:

- A. Automobile Repair (Major): General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.
- B. Automobile Repair (Minor): Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding twelve thousand (12,000) pounds gross weight, but not including any operation specified under the definition of "automobile repair (major)".
- C. Automobile Sales: The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, trailers or recreational vehicles including any major or minor automobile repair or service uses conducted as an accessory use.
- D. Automobile Service Station: Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar accessories.
- E. Garden Supply Store: A place of business where retail and wholesale products and produce are sold to the retail customer. These centers import the majority of the items sold. These items may include soils, wood chips, decorative rock, brick, retaining wall block, plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoses, rakes, shovels, and other garden and farm tools and utensils.
- F. Hospitality Business: An establishment offering transient lodging accommodations on a daily rate to the general public, leasable events, meeting or conference facilities and exhibition halls or other uses of similar character including hotels, motels, convention facilities, and hospices.
- G. Hotel: Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six (6) or more guest rooms, used, designated, or intended to be used, let or hired out to be occupied, or which are occupied by six (6) or more individuals for compensation, whether the compensation be paid directly or indirectly.
- H. Liquor Sales, Off-Sale: Licensed sale of intoxicating beverages for consumption off site.

- I. Liquor Sales, On-Sale: Licensed sale of intoxicating beverages for consumption at the premises where the beverage is purchased.
- J. Motor Fuel Station: A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.
- K. Nursery, Commercial: A business involving retail sales of trees, flowering and decorative plants, and shrubs for purposes of transplanting which may be conducted within a building or without.
- L. Nursery, Wholesale: An enterprise which conducts exclusively wholesale sale of plants grown on the site to retailers and jobbers. The only accessory items allowed are pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, shovels, and other hand held tools, but not including power tools or equipment such as gas or electric lawn mowers and farm implements.
- M. Office Business Clinic: An establishment located within a building or portion of a building providing out-patient health services to patrons, including general medical clinics, mental health providers, chiropractor, dentists, orthodontia, oral surgeons, opticians, and other uses of similar character.
- N. Office Business General: An establishment located within a building or portion of a building for the conduct of business activities involving predominantly professional administrative or clerical service operations including attorneys, financial advisors, insurance, travel, real estate, and other uses of similar character.
- O. Personal Service: Personal services shall include, but not be limited to, the following: barber shops, beauty salon, electrolysis, manicurist, tanning parlor, physical therapy, therapeutic massage, and tattooing.
- P. Pet Shop: A place kept or maintained for the exhibition for sale, or sale or purchase of live dogs, cats, rabbits or other small animals, or any birds, reptiles or fish. Pet shops may include incidental animal grooming and adoption activities, but not animal hospitals, veterinary clinics, or places selling live bait for fishing.
- Q. Recreational Business: An establishment designed and equipped to conduct sports and leisure time activities. Recreational businesses shall include, but not be limited to: arcades, health clubs, gymnasiums, bowling alleys, billiard (pool) halls, dance halls, dance studios, skating rinks, theaters, and indoor firearm ranges.
- R. Restaurant: An establishment that serves food in individual servings for consumption on or off premises, including sit down restaurants, take out, pick up, or delivery food sales, but not including drive through facilities. Outdoor dining areas

and drive through facilities may or may not be allowed in each zoning district. They are not automatically allowed when a restaurant is an allowable use.

- S. **Retail Business:** An establishment engaged in the display and sale of products produced off site directly to consumers within a building or portion of a building excluding any exterior display and sales.
- T. **Service Business, Off Site:** A company that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the service is provided at the customer's location, including delivery services, catering services, plumbing and sewer services, and other uses of similar character.
- U. **Service Business, On-Site:** An establishment that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the customer patronizes the location of the operation, such as banks (not including drive through facilities), copy centers, laundromats, dry cleaners, funeral homes and mortuaries, appliance repair, tailor shops, and travel bureaus.
- V. **Veterinary Clinic:** A clinic operated by a licensed veterinarian exclusively for the diagnosis, treatment, correction, relief, or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; the performance of obstetrical procedures for animals, including determination of pregnancy and correction of sterility or infertility; and the rendering of advice or recommendations with regard to any of the above.

**COMMERCIAL VEHICLE:** A vehicle used for commercial purposes either greater than eight (8) feet in height or greater than twenty-two (22) feet in length, including, but not limited to: boom trucks, cargo trucks, dump trucks, farm implements, fire trucks, ambulances, limousines, hearses, semi-tractor trailers, tank trucks and tow trucks.

**COMMISSIONER:** The Commissioner of the Department of Natural Resources.

**COMMON OPEN SPACE:** Any open space including parks, nature areas, playgrounds, trails and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.

**COMPREHENSIVE PLAN:** A compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the Municipality and its environs, including air space and subsurface areas necessary for mined underground space development as pursuant to Minnesota statutes, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, park/trail/recreation plan, a transportation plan, stormwater management plan, sanitary sewer and water system plan, and recommendations for plan execution.

**CONDITIONAL USE:** A use which, because of special problems of control the use presents, requires reasonable, but special, unusual and extraordinary limitations peculiar

to the use for the protection of the public welfare and the integrity of the City Comprehensive Plan.

**CONDITIONAL USE PERMIT:** A permit issued by the City Council in accordance with procedures specified in this Ordinance, as a flexibility device to enable the City Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

**CONDOMINIUM:** A multiple-family 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 Law, Minnesota Statutes sections 515.01 through 515.29.

**DAYCARE FACILITY:** Any State licensed facility, public or private, which for gain or otherwise regularly provides one (1) or more persons with care, training, supervision, habilitation, 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. Daycare facilities include, but are not limited to: family daycare homes, group family daycare homes, daycare centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and other "nonresidential programs" as defined by Minnesota Statutes section 245A.02, subdivision 10.

**DECK:** 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 above grade.

**DENSITY:** The number of dwelling units per gross acre of land.

**DENSITY, NET:** The number of dwelling units per buildable acres of land.

**DEPOSIT:** Any rock, soil, gravel, sand or other material deposited naturally or by man into a water body, watercourse, flood plains or wetlands.

**DISCHARGE:** The conveyance, channeling, runoff, or drainage, of storm water, including snowmelt, from a construction site.

**DISTILLERY:** A facility that produces ethyl alcohol, hydrated oxide of ethyl, sprits of wine, whiskey, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof for non-industrial use.

**DISTRIBUTION LINES:** All those wires, poles, and appurtenant equipment used to carry electricity, generally rated below 115 kilovolts, located between a customer and a transmission line.

**DISTRICT:** A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

**DRAINING:** The removal of surface water or ground water from land.

**DREDGING:** To enlarge or clean-out a water body, watercourse, or wetland.

**DRIVE-THROUGH FACILITY:** An establishment (principal or accessory use) at which patrons may purchase products or receive service without having to leave their motor vehicle (and enter a building).

**DWELLING:** A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple-family dwellings, but not including hotels, motels, boarding houses, bed and breakfast, mobile homes or trailers.

**DWELLING, EFFICIENCY (APARTMENT):** A dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.

**DWELLING, MULTIPLE-FAMILY (APARTMENT):** A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.

**DWELLING, QUADRAMINIUM:** A single structure which contains four (4) separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure.

**DWELLING, SINGLE-FAMILY:** A dwelling unit designed exclusively for and occupied exclusively by one (1) family.

**DWELLING, TOWNHOUSE:** A structure housing three (3) or more dwelling units contiguous to each other only by the sharing of one (1) or more common walls with each unit having a separate entrance/exit, such structure to be of the townhouse or row house type as contrasted to multiple-family dwelling apartment structures.

**DWELLING, TOWNHOUSE, DETACHED:** A structure having the characteristics of a multiple unit townhouse structure that has been separated into single dwelling units at the common side wall, typically with structure dimensions that have a narrow front and deep side walls and are typically without windows or features on at least one of the side walls.

**DWELLING, TWO-FAMILY:** A structure designed exclusively for occupancy by two (2) families living independently of each other.

A. Duplex: A two-family dwelling with one (1) unit above the other.

B. Twinhome: A two-family dwelling with two (2) units side-by-side.

**DWELLING UNIT:** A residential building or portion thereof intended for occupancy by one or more persons with facilities for living, sleeping, cooking and eating, but not including hotels, motels, nursing homes, tents, seasonal cabins, boarding or rooming houses, motor homes, or travel trailers.

**EARTH SHELTERED BUILDING:** A building so constructed that fifty (50) percent or more of the completed structure is covered with earth. Earth covering is measured from the lowest level of the livable space in residential units and of usable space in nonresidential buildings. An earth sheltered building is a complete structure that does not serve just as a foundation or substructure for above grade construction. A partially covered building shall not be considered earth sheltered.

**EASEMENT:** A grant by a property owner to and/or for use by the public, or other entity for the purpose of constructing and maintaining streets, trails, sidewalks, drives, and/or utilities, including, but not limited to, wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways, and gas lines.

**EMERGENCY OVERFLOW (EOF):** This refers to the outlet location of a pond, wetland or other drainage system that is utilized when the system floods. The overflow is designed to provide an emergency outlet for the system to avoid critical damage to adjacent property or structures.

**ENERGY DISSIPATION:** This refers to methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

**ENGINEER:** An electrical, mechanical, civil, or other professional engineer licensed by the State of Minnesota.

**EQUAL DEGREE OF ENCROACHMENT:** A method of determining the location of encroachment lines so that flood plain land on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

**EROSION:** Any process that wears away the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of people and nature.

**EROSION CONTROL:** Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

**EROSION AND SEDIMENT PRACTICE SPECIFICATIONS OR PRACTICE:** The management procedures, techniques and methods to control soil erosion and sedimentation as officially adopted by either the City, County or local watershed group, whichever is more stringent.

**ESSENTIAL SERVICES:** The erection, construction, alteration, or maintenance by private or public utilities, or Municipal departments of underground telephone, gas, electrical, communication, waste, or water transmission, distribution, collection, supply or disposal systems, including water towers, wells, poles, wires, radio receivers and transmitters, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment, accessories and related structures in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Essential services shall not include waste facilities or personal wireless service antennas or support structures.

**EXCAVATION/GRAVEL PIT, ACTIVE:** Any artificial excavation of the earth dug, excavated or made by the removal of the natural surface of the earth, whether sod, soil, sand, stone, or other matter, creating a depression or depressions, exceeding in any one place one thousand (1,000) square feet of surface area, the bottom or lowest point of which shall be one foot or more below or lower than the level of adjoining unexcavated land, in which depression, pit or excavation water may fall, gather, collect or remain stagnant, putrid or polluted, or which depression may be or become dangerous from the standpoint of public safety or health, or to children playing therein or thereby, or which depression may become a public nuisance or deteriorate the value of the adjacent property. The terms “active gravel pit” and “active excavation” also mean any area where the topsoil or overburden has been removed for the purpose of mining earthy deposits or minerals, yet the area has remained idle since the topsoil removal. The terms “active gravel pit” and “active excavation” also mean any area that is being used for stockpiling ,storage, or processing or recycling of sand, gravel, soils, or other materials or products derived from gravel mining, even if such materials did not originate or were not produced on the premises. Such operation may include, but are not limited to, concrete mixing, concrete block production, asphalt production, the grinding and/or crushing of concrete or asphalt, and the processing of petroleum-contaminated soil being managed pursuant to state pollution control agency approval, so long as the processing or recycling does not violate any federal or state law or any of the requirements referred to in this Chapter. Depressions, pits, and excavations made for the purpose of a foundation, cellar, or basement of some immediately pending structure to be created, built or placed thereon contemporaneously with or immediately following such excavating and covering, or to cover such excavated pit or depression when completed, are excluded from the definition of an active gravel pit or active excavation if a building permit has been issued.

**EXPOSED SOIL AREAS;** All areas of the construction site where the vegetation (trees, shrubs, brush, etc.) have been removed, including topsoil stockpile areas, borrow areas and disposal areas within the construction site.

**FAMILY:** An individual or two (2) or more persons each related to the other by blood, marriage, adoption, domestic partnership, or foster care, or a group of not more than three (3) persons not so related maintaining a common household and using common cooking/ kitchen and bathroom facilities.



**FARM:** A tract of land of more than ten (10) acres in size usually with a house and barn plus other buildings on which crops and often livestock are raised.

**FARM, HOBBY:** A tract of land with a house and accessory buildings on which crops and often livestock are raised but not as a principal source of income.

**FARMING:** Process of operating a farm for the growing and harvesting of crops which shall include those necessary accessory buildings, related to operating the farm, and the keeping of common domestic farm animals.

**FENCE:** Any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

**FILTER STRIPS:** A vegetated section of land designed to treat runoff as overland sheet flow. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.

**FINAL STABILIZATION:** Meaning that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of seventy-five (75) percent of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures have been employed.

**FLOOR AREA:** The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The floor area of a residence shall not include the cellar area.

**FORESTRY:** The use and management, including logging, of a forest, woodland or plantation and related research and educational activities including the construction, alteration or maintenance of wood roads, skidways, landings, and fences.

**FRONTAGE:** The boundary of a lot which abuts an existing or dedicated public street or private drive.

**GARAGE, PRIVATE (RESIDENTIAL):** An accessory building or accessory portion of the principal building which is primarily intended for and used to store passenger vehicles and trucks (not exceeding twelve thousand (12,000) pounds gross weight) owned and operated by a resident upon the premises.

**GARAGE, PUBLIC:** A building or portion of a building, except any herein defined as a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire.

**GRADE (ADJACENT GROUND ELEVATION):** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

**GRADING:** Changing the natural or existing topography of land.

**GREENHOUSE:** An enclosed building, permanent or portable, which is used for the growing of small plants.

**GUEST ROOM:** A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

**HOME EXTENDED BUSINESS:** A home occupation that allows for limited business activity in a detached accessory structure.

**HOME OCCUPATION:** Any occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.

**HOME OFFICE:** A home occupation consisting of a room or group of rooms used for conducting affairs of a recognized business, profession or service solely by the occupant of the dwelling and which does not involve the on-site sale of products or client/patron site visitations.

**HORSE STABLE, COMMERCIAL:** An accessory use involving the housing and/or boarding of horses owned and/or used by someone other than the occupant or owner of the residence.

**HOUSE PET ENCLOSURE:** Any accessory building or portion thereof, accessory structure or area of any kind, including, without limitation, pens, runs, kennels and pet houses, that is principally used or designed for use as a place for keeping house pets. An electronic pet containment system is not considered a house pet enclosure.

**HYDRIC SOILS:** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**HYDROPHYTIC VEGETATION:** Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water-content.

**IMPERVIOUS SURFACE:** Any man-made area that alters the natural surface course for, or does not allow for, the natural rate of absorption or retention of storm water including buildings, pavement, gravel, and other such surfaces.

**IMPOUNDED WATERS:** Any and all liquid substances kept on public or private property in such a manner that more than five hundred (500) gallons are above the natural surface of the surrounding ground.

**INACTIVE GRAVEL PIT (Included inactive Excavation):** All that area for which a conditional use permit or annual license has been obtained for gravel pit or excavation purposes from the City and has not had the topsoil or overburden removed. No actual excavations or mining may take place and no stockpiling, storage, or processing of materials is allowed in an inactive gravel pit or inactive excavation area. The land has the potential to be changed to an active classification at any future date during the annual permit renewal process.

**INDIVIDUAL SEWAGE TREATMENT SYSTEM:** A sewage treatment system or part thereof, serving a dwelling, building, structure or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. An individual sewage treatment system includes holding tanks.

**INDUSTRIAL USE:** The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities, or other wholesale items.

**INFILTRATION:** The flow of water from the land surface to the subsurface.

**INFILTRATION BASIN:** A depression in the surface of the land that holds water and uses infiltration as the primary outlet for the stormwater.

**INSTITUTIONAL USE:** A use that provides a public service and is operated by a Federal, State or local government, public or private utility, public or private school or college, tax-exempt organization, and/or a place of religious assembly. Examples include: public agency, public safety and emergency services, essential and utility services, cultural, service and religious facilities, public/private health facilities or other similar uses.

**INTERIM USE:** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow it.

**INTERIM USE PERMIT:** A permit issued in accordance with procedures specified in this Ordinance, as a flexible device to enable the City Council to assign time limits and conditions to a proposed use after consideration of current or future adjacent uses and their functions.

**INTERLOCK:** The painted line or a barrier in a parking lot that separates two (2) facing rows of parking from one another.

**INTERMITTENT:** A stream or portion of a stream that flows only in direct response to precipitation.

**JUNKYARD:** An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber, tires, and bottles. Junkyard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. Junkyard does not include sanitary landfills.

**KENNEL, COMMERCIAL:** Any structure or premises on which more than four (4) dogs over six (6) months of age are housed, bred, boarded, or exhibited, except hospitals, clinics, and other premises operated by a licensed veterinarian exclusively for the care and treatment of animals. (Ord 160, SS, 8-10-11)

**LAND DISTURBANCE ACTIVITY:** Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government's jurisdiction, including clearing and grubbing, grading, excavating, transporting, and filling of land.

**LAND RECLAMATION:** The process of the reestablishment of acceptable topography (i.e., slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

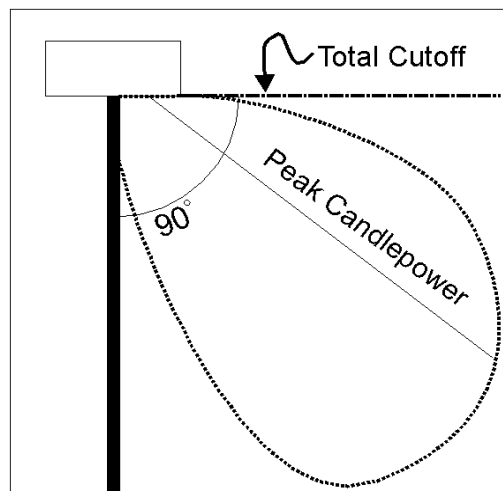
**LAND SURVEYOR:** Such persons licensed by the State of Minnesota as a land surveyor.

**LANDSCAPING:** Plantings such as trees, grass, and shrubs.

#### **LIGHTING RELATED:**

- A Cutoff. The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated at a specific angle above the ground.
- B Cutoff Angle. The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted (see Figure 1).
- C Cutoff Type Luminaire. A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.

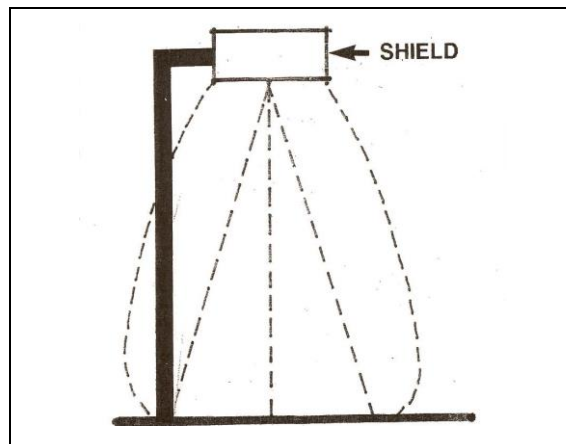
Figure 1. Cut Off Angle



- D. Flashing Light. A light source which is not constant in intensity or color at all times while in use.
- E. Foot candle. A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.
- F. Light Source. A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.
- G. Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.
- H. Outdoor Lighting. Any light source or collection of light sources, located outside a building, including but not limited to, light sources attached to any part of a structure, located on the surface of the ground or located on freestanding poles.
- I. Outdoor Light Fixture. Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including, but not limited to, the hardware casing. Such devices shall include, but are not limited to, search, spot, and flood lights for:
  - 1. Buildings and structures.
  - 2. Recreational areas.
  - 3. Parking lot lighting.
  - 4. Landscaping lighting.
  - 5. Signs.
  - 6. Street lighting.
  - 7. Product display area lighting.
  - 8. Building overhangs and open canopies.
- J. Security Lighting. Outdoor lighting fixtures installed exclusively as a measure to reduce the possible occurrence of a crime on the property.

Figure 2 – Shielding

- K. **Shielding.** A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture (see Figure 2).
- L. **Spillage.** Any reflection, glare or other artificial light that emits onto any adjoining property or right-of-way and is above a defined maximum illumination.



**LOADING SPACE (OFF-STREET):** A formally delineated space, area, or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a vehicle or truck while loading or unloading merchandise or materials.

**LOT:** Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area required by this Ordinance for a building site in the district in which such lot is situated and having its principal frontage on a public street.

**LOT AREA:** The area of a horizontal plane within the lot lines.

**LOT AREA, MINIMUM (Lots Of Record And Preliminary Platted Lots Having Legal Standing Prior to the Effective Date of This Ordinance):** Except as may be otherwise required by this Ordinance, the area of a horizontal plane within the lot lines.

**LOT AREA, MINIMUM (Lots Of Record Established After the Effective Date of this Ordinance):** Except as may be otherwise expressly allowed in this Ordinance, the area of a horizontal plane within the lot lines excluding major drainageways, wetlands, water bodies, road rights of way, required buffer strips, regional utility/pipeline easements, and slopes steeper than three to one (3:1).

**LOT, BASE:** Lots meeting all the specifications in the zoning district prior to being subdivided into a two-family dwelling or quadraminium subdivision.

**LOT, CORNER:** A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty five (135) degrees or less.

**LOT, DEPTH:** The mean 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, FRONTAGE:** The narrowest lot boundary abutting a public street that meets minimum lot width requirements. If none of the boundaries abutting a public street meet minimum lot width requirements, then the lot frontage is the widest boundary abutting a street. In areas where a lot has two (2) or more boundaries of equal length that abut a public street, the Zoning Administrator shall determine the lot frontage based upon the character of the area.

**LOT IMPROVEMENT:** Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

**LOT INTERIOR:** A lot, other than a corner lot, including through or double frontage lots.

**LOT LINE:** A property boundary line of any lot held in single or separate ownership except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right of way.

**LOT LINE, FRONT:** The lot line separating a lot from the street right of way along the lot frontage.

**LOT LINE, REAR:** The lot line opposite and most distant from the lot frontage which connects the side lot lines.

**LOT LINE, SIDE:** Lot lines extending away from the lot frontage, which connects the front and rear lot lines.

**LOT OF RECORD:** A parcel of land, whether subdivided and/or otherwise legally described and recorded or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage upon a street.

**LOT, SUBSTANDARD:** A lot or parcel of land which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.

**LOT, THROUGH:** A lot fronting on two (2) parallel streets. Also defined as a "double frontage lot".

**LOT, TRIANGULAR:** A lot in which the side lot lines converge into a single vertex. The vertex shall be deemed to be the rear lot line.

**LOT, UNIT:** Lots created from the subdivisions of a two-family dwelling or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.

**LOT, WIDTH:** The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the front setback line. For cul-de-sac lots, "lot

width" shall mean the minimum required horizontal distance between the side lot lines, measured along a straight line at the midpoint of the front setback line.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on-site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of State and complies with the standards established under Minnesota Statutes chapter 327.

**MANUFACTURED HOME PARK:** Any site, lot, field, or tract of land upon which two (2) 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.

**MANUFACTURING:** All manufacture, compounding, processing, packaging, treatment, or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Such uses include but are not limited to, sawmills, refineries, commercial feedlots, acid, cement, explosives, flour, feed, and grain milling or storage, meat packing, slaughter houses, coal or tar asphalt distillation, rendering of fat, grease, lard or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of paris, tanneries, automobile parts, paper and paper products, glass, chemicals, crude oil and petroleum products including storage, electric power generation facilities, foundry forge, casting of metal products, rock, stone, and cement products.

**METES AND BOUNDS DESCRIPTION:** A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

**MICRODISTILLERY:** A distillery defined by the State in Statute Section 340A.101 producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

**MINERALS/EARTHLY DEPOSITS:** Soil, clay, stone, sand and gravel and other similar solid material or substance to be excavated from natural deposits.

**MINING:** All or any part of the process involved in the extraction of minerals by removing the overburden and extracting directly from the soil, clay, stone, sand, and gravel and other similar solid material or substance deposits thereby exposed.



**MODEL HOME:** A home which is similar to others in a development and which is open to public inspection for the purpose of selling said other homes.

**MUNICIPALLY OPERATED PUBLIC USES, UTILITIES, AND BUILDINGS:** A use, utility, or building operated by the City of St. Francis.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES).** The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the federal Clean Water Act.

**NATURAL DRAINAGE SYSTEM:** All land surface areas which by nature of their contour configuration, collect, store and channel surface water runoff.

**NON-CONFORMING STRUCTURE OR USE, ILLEGAL:** A structure or use that has been established in a manner that does not conform to the applicable conditions required by the regulations in place at the time the structure or use was established.

**NON-CONFORMING STRUCTURE OR USE, LEGAL:** Any lawfully established structure or use which following the effective date of this Ordinance does not conform to the applicable conditions if the structure or use was to be erected under the guidance of this Ordinance.

**NURSING HOME:** A State licensed facility or that part of a facility which provides nursing care pursuant to Minnesota Statutes chapter 144A.01.

**OBSTRUCTION:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

**OPEN SALES LOT (EXTERIOR STORAGE):** Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

**OPEN SPACE:** Open areas including parks, nature areas, playgrounds, and trails.

**OPEN SPACE RECREATION USES:** Recreation uses particularly oriented to and utilizing the outdoor character of an area; including hiking and riding trails, primitive campsites, campgrounds, waysides, parks and recreation areas.

**OPEN SPACE, USABLE:** A required ground area or terrace area on a lot which is graded, developed, landscaped and/or equipped, and which is intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling on the lot or a development project and their guests. Such areas

shall be grassed and landscaped or covered only for recreational purposes. Roofs, driveways, and parking areas shall not constitute usable open space. Required front and side yards shall be excluded from the usable open space area calculation.

**OPERATOR:** Any person, including every public or governmental agency, engaged, in active or inactive excavation or the processing of sand, gravel, rock, other soils or derived products.

**ORDINARY HIGH WATER MARK:** A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high water mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters and sloughs.

**OUTDOOR WOOD-BURNING FURNACE:** Any accessory structure or appliance designed to be located outside living space ordinarily used for human habitation and designed to transfer or provide heat, via liquid or other means, through the burning of wood or other fuel, for heating spaces other than where such structure or appliance is located, any other structure or appliance on the premises, or for heating domestic, swimming pool, hot tub or Jacuzzi water. Outdoor wood-burning furnace does not include an outdoor fireplace, fire pit, wood-fired barbecue, or chiminea. An outdoor wood-burning furnace may also be referred to as an outdoor wood boiler or outdoor hydronic heaters. (Ord. 195, Adopted 7/21/14, Effective 8/24/14)

**OUTLOT:** A parcel of land, included in a plat, which is smaller than the minimum size permitted for lots and which is thereby declared unbuildable until combined through platting with additional land; or, a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or a parcel of land which is included in a plat and which is designated for public or private open space, right of way, utilities, stormwater ponding, or other similar purposes.

**OVERBURDEN:** The earth, rock and other materials that lie above a natural deposit of mineral.

**PARKING RAMP:** A structure designed and used for the storage of motor vehicles at, below and/or above grade.

**PARKING SPACE:** An area enclosed in the principal building, in an accessory building, or unenclosed, sufficient in size to store one motor vehicle, which has adequate access to a public or private street, alley or driveway permitting satisfactory ingress and egress of such motor vehicle.

**PAVED SURFACE:** A constructed hard, smooth surface made of asphalt, concrete or other pavement material. Examples include, but are not limited to, roads, sidewalks, driveways and parking lots.

**PERMANENT COVER:** Meaning “final stabilization”. Examples include grass, asphalt, and concrete. For the purposes of this ordinance, gravel shall also be considered a Permanent Cover.

**PERSON:** An individual, firm, partnership, association, corporation, or organization of any kind. "Person" also means an adult who is handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicap, and a child, whether handicapped or not, as defined by Minnesota Statutes section 245A.02, subdivision 4.

**PLANNED UNIT DEVELOPMENT:** A development procedure whereby a mixing of buildings and uses can occur which cannot be otherwise addressed under this Ordinance, and/or whereby internal site design standard deviations from this Ordinance may be allowed to improve site design and operation.

**PLANNING COMMISSION:** The City of St. Francis Planning Commission.

**PRIMITIVE CAMPSITES:** An area that consists of individual removable campsites accessible only by foot or water.

**PRINCIPAL USE/BUILDING:** The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be permitted, interim, conditional, or allowed by administrative permit.

**PROCESSING:** The crushing, washing, compounding or treating of rock, sand gravel, clay, silt or other like material.

**PUBLIC USES AND LANDS:** Uses or properties owned or operated by Municipal, school districts, County, State, or other governmental units.

**PUBLICATION:** Notice placed in the official City newspaper stating time, location and date of meeting and description of the topic.

**REACH:** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

**RECLAMATION, RESTORATION, and REHABILITATION:** To renew land to a self-sustaining long term use which is compatible with contiguous land uses and compatible with the City's comprehensive land use plan. Reclamation, restoration or rehabilitation is to be in accordance with the standards set forth in this Ordinance, including the re-establishment of vegetative cover and soil stability and the establishment of safe conditions appropriate to the intended use of the land.

**RECREATION, FIELD OR BUILDING:** An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semipublic use, whether temporary or permanent, except a theater, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium, or gymnasium is a recreation field or building for the purpose of this Ordinance.

**RELIGIOUS INSTITUTION:** A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

**RESIDENTIAL CARE FACILITY, STATE LICENSED:** Any program, defined by Minnesota Statutes section 245A.02, subdivision 14, that provides twenty four (24) hour a day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner of the Department of Human Services to provide services for five (5) or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in an intermediate care facility for four (4) or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the commissioner of the Department of Human Services on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under Minnesota Statutes 254B. Residential programs include home and community-based services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

**RESTORATION AREA:** All land areas wherein Conditional Use Permits or excavation permits have been granted by the City in the past and for which permits are no longer requested or issued. Once a land area is classified as a restoration area, it cannot be reclassified or converted back to an active area unless a new Conditional Use Permit is obtained.

**ROOF LINE:** That line at which an exterior wall surface of a building departs from the vertical plane and, typically, where the horizontal plane of the roof commences. Mansard-like roof treatments may be considered as extensions of a building wall surface when the mansard-like treatment is considered as part of the roof.

**RUNOFF COEFFICIENT:** The average annual fraction of total precipitation that is not infiltrated or otherwise retained by the soil, concrete, asphalt or other surface upon which it falls that will appear at the conveyance as runoff.

**SCHOOL:** A building used for the purpose of elementary or secondary education, which meets all the requirements of compulsory education laws of the State of Minnesota, and not providing residential accommodations.

**SCHOOL, PRIVATE:** Any building or group of buildings, not operated by a public agency or unit of government, the use of which meets compulsory education laws of the State of Minnesota, for elementary school, middle school (junior high school), secondary (senior high school), or higher education and which use does not secure the major part of its funding directly from any governmental source.

**SCHOOL, PUBLIC:** Any building or group of buildings, the use of which meets compulsory education laws of the State of Minnesota, for elementary school, middle school (junior high school), secondary (senior high school), or higher education and which secures all or the major part of its funding from governmental sources and is operated by a public agency or governmental unit.

**SEDIMENT:** The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, or ice, and has come to rest on the earth's surface either above or below water level.

**SEDIMENT CONTROL:** The methods employed to prevent sediment from leaving a development site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

**SEDIMENTATION:** Sedimentation means the process or action of depositing sediment caused by erosion.

**SELECTIVE CUTTING:** The removal of single scattered trees.

**SETBACK:** The minimum horizontal distance between a structure and lot line, ordinary high-water mark, or right-of-way easement. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided hereinafter.

**SEWAGE TREATMENT SYSTEM:** Any system for the collection, treatment and dispersion of sewage including but not limited to septic tanks, soil absorption systems and drain fields.

**SIGN RELATED:**

- A. Advertising Sign. A sign used to advertise products, goods or services not exclusively related to the premise on which the sign is located.
- B. Address Sign. A sign communicating only a street address.
- C. Alteration. Any major alteration to a sign excluding routine maintenance, painting or change of copy.

- D. Area Identification Sign. A freestanding sign identifying the name of a single or two-family residential subdivision consisting of twenty (20) or more lots; a residential planned unit development; a multiple residential complex consisting of three (3) or more independent operations; a single business consisting of three (3) or more separate structures; a manufactured home park; or any integrated combination of the above. The sign shall only identify an area, complex or development and shall not, unless approved by the City Council, contain the name of individual owners or tenants. The sign may not contain advertising.
- E. Banner. An attention getting device which resembles a flag and is of a paper, cloth or plastic-like consistency.
- F. Building Facade. That portion of the exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.
- G. Business Sign. Sign identifying a business or group of businesses, either retail or wholesale, or any sign identifying a profession or used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where the sign is located.
- H. Campaign Sign. A temporary sign promoting the candidacy of a person running for governmental office, or promoting an issue to be voted on at a governmental election.
- I. Canopy Sign. Message or identification affixed to a canopy or marquee that provides shelter or cover over the approach to any building entrance.
- J. Construction Sign. A sign at a construction site identifying the project or the name of the architect, engineer, contractor, financier, or other involved parties.
- K. Directional Sign. A sign which is erected on private property by the owner of such property for the purpose of guiding vehicular and pedestrian traffic. Such signs bear no advertising information.
- L. Flashing Sign. An illuminated sign upon which the artificial light is not kept constant in terms of intensity or color when the sign is illuminated.
- M. Freestanding Sign. A sign that is placed in the ground and not affixed to any part of any structure.
- N. Identification Sign. A sign which identifies the business, owner, manager, resident or address of the premises where the sign is located and which contains no other material.

- O. Illuminated Sign. A sign illuminated by an artificial light source either directed upon it or illuminated from an interior source.
- P. Informational Sign. Sign giving information, containing no advertising or company name to employees, visitors, or delivery vehicles..
- Q. Integral Sign. A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.
- R. Marquee. A canopy.
- S. Menu Board. A sign containing a food price list for restaurant customers, but containing no advertising or identification.
- T. Motion Sign. Any sign which revolves, rotates or has any moving parts.
- U. Non-conforming Sign. Any sign which lawfully existed prior to the effective date of this Section, but does not conform to the requirements of this Section.
- V. Parapet. A low wall which is located on a roof of a building.
- W. Permanent Sign. Any sign that is not a temporary sign.
- X. Portable Sign. A sign designed to be movable from one location to another and which is not permanently attached to the ground, sales display device, or structure.
- Y. Projecting Sign. Any sign, all or any part of which extends over public property.
- Z. Public Entrance. Passage or opening which affords entry and access to the general public.
- AA. Public Entrance, Common. A public entrance providing access for the use and benefit of two (2) or more tenants or building occupants.
- BB. Real Estate Sign. A business sign placed upon property advertising that particular property for sale or rent.
- CC. Roof Line. The top of the coping or, when the building has a pitched roof, the intersection of the outside wall with the roof.
- DD. Roof Sign. Sign erected, constructed or attached wholly or in part upon or over the roof of a building.

- EE. Sandwich Board Sign. A self-supporting temporary A-frame sign with two (2) faces made of wood or other similar durable materials. (Ord. 172, SS, 9/10/12)
- FF. Sign. Any letter, word or symbol, device, poster, picture, statuary, reading matter, or representation in the nature of an advertisement, announcement, message or visual constructed, which is displayed outdoors for informative or communicative purposes.
- GG. Sign Area. That area within the marginal lines of the surface which bears the advertisement, or in the case of messages, figures, or symbols attached directly to any part of any building, that area which is included in the smallest rectangle which can be made to circumscribe the message, figure or symbol displayed thereon. The stipulated maximum sign area for a free standing sign refers to a single facing.
- HH. Sign, Height. The highest portion of the actual sign, including the pole.
- II. Sign Structure. The supports, uprights, bracing and framework for a sign including the sign area.
- JJ. Street Frontage. The proximity of a parcel of land to one (1) or more streets. An interior lot has one (1) street frontage and a corner lot has two (2) or more frontages.
- KK. Temporary Sign. Signs which are erected or displayed for a limited period of time. (Ord 156, SS, 1-1-12)
- LL. Wall Sign. A sign affixed to the exterior wall of a building and which is parallel to the building wall. A wall sign does not project more than twelve (12) inches from the surface to which it is attached, nor extend beyond the top of the parapet wall.

**SLOPE:** The degree of deviation of a surface from the horizontal, usually, expressed in percent or degrees.

**SOIL:** The unconsolidated material and organic material on the immediate surface of the earth. For the purposes of this document, stockpiles of sand, gravel, aggregate, concrete or bituminous materials are not considered "soil" stockpiles.

**STABILIZED:** The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, or other material that prevents erosion from occurring. Sowing grass seed is not considered stabilization.

**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 The County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific



information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

**STORAGE, OUTDOOR:** Storage of any property not fully enclosed in a building.

**STORM SEWER SYSTEM:** The system of conveyances, including sidewalks, municipal streets, driveways, curb and gutter, ditches, channels, retention basins, catch basins or similar storm water inlets, and/or any other conveyance delivering water to the public storm sewer collection and delivery system.

**STORMWATER:** Precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff and drainage.

**STORMWATER POLLUTION PREVENTION PLAN:** A joint stormwater and erosion and sediment control plan that is a document containing the requirements of Section 34.04. When implemented the plan will reduce soil erosion on a parcel of land and prevent off-site non-point pollution and sediment damages.

**STORY:** The portion of a building including beneath the upper surface of a floor and upper surface of floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unfinished under floor space is more than six (6) feet above "grade" as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above "grade" as defined herein at any point, such basement, cellar, or unused under floor space shall be considered a story.

**STREET:** A public right-of-way which affords primary means of access to abutting property, and shall also include an avenue, highway, road, or way, or however otherwise designated.

**STREET, ARTERIAL:** A street which is the major interconnection within a community transportation system providing major access routes within the community and its environs.

**STREET, COLLECTOR:** A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

**STREET, FRONTAGE:** The proximity of a parcel of land to one (1) or more streets. An interior lot has one street frontage and corner lots and through lots have two (2) frontages.

**STREET, LOCAL:** A street intended to serve primarily as an access to abutting properties.

**STREET WIDTH:** The width of the improved surface of the street as measured at right angles or radially to the centerline of the street from curb face to curb face, or on a street

without curbs from the outside edge of the improved shoulder to outside edge of improved shoulder.

**STRUCTURAL ALTERATION:** Any change, other than incidental repairs, which would prolong or modify the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

**STRUCTURE:** Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.

**SUBSTANDARD USE, SHORELAND:** Any use within the land use district existing prior to the effective date of this Ordinance which is permitted within the applicable land use district but does not meet the minimum lot area, length of water frontage, structure setbacks, or other dimensional standards of this Ordinance.

**TEMPORARY PROTECTION:** Short term methods employed to prevent erosion. Examples of such protection include: straw, mulch, erosion control blankets, wood chips, and erosion netting.

**TEMPORARY/SEASONAL OUTDOOR SALES:** One time sidewalk sales, Christmas tree sales, seasonal supply sales, special event sales and similar activities conducted by the operator(s) of a legitimate, established business (within the appropriate zoning district) in the City of St. Francis.

**TEMPORARY STRUCTURE:** A structure not permanently erected on a site with a foundation that is used for emergency purposes or used on a construction site for offices and equipment storage during construction of a permanent structure.

**THEATER:** A building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use.

**TRAILER, SEMI-TRACTOR:** A trailer with a set or sets of wheels at the rear only, which may be supported in front by a truck, tractor or towing vehicle, and which is used for the purpose of, but not limited to, storage, transportation of freight, or holding freight for sale or lease.

**TRANSIT STATION:** A building or area which serves as a regular stopping place for buses and/or other forms of urban public transportation.

**TRANSMISSION LINE:** Those high capacity conductors generally rated 115 kilovolts and above and associated structures which are used to carry electricity from points of generation to distribution points such as substations and distribution lines.

**TRUCK STOP:** Any building, premises or land in which or upon which a business, service or industry involving the maintenance, cleaning, servicing, storage or repair of commercial vehicles is conducted including the dispensing of motor fuel, the sale of accessories or

equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations, restaurant facilities, a car wash and truck wash or other ancillary uses.

**TRUCK TERMINAL:** A building or area in which freight brought by truck is assembled and/or temporarily stored for re-routing or re-shipment. The terminal facility may also include storage and/or parking areas for truck tractor and/or trailer units.

**UNDUE HARDSHIP:** The same as that term is defined in Minnesota Statutes chapter 462.357, as may be amended, meaning that the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance, the plight of the landowner is due to circumstances unique to the property not caused by the landowner and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute an undue hardship if a reasonable use of the property exists under the terms of this Ordinance. Undue hardship may also include inadequate access to direct sunlight for solar energy systems.

**USE:** The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Ordinance.

**USE, ACCESSORY:** A use subordinate to and servicing the principal use or structure on the same lot and customarily incidental thereof.

**USE, NON-CONFORMING:** Use of land, buildings, or structures legally existing at the present time or at the time of a subsequent amendment to this Ordinance which does not comply with the regulations as set forth.

**USE, PERMITTED:** A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

**USE, PRINCIPAL:** The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or accessory.

**USE, SECONDARY:** A use of land or of a building or a portion thereof which is subordinate to and does not constitute the primary use of the land or building.

**VARIANCE:** A modification of or variation from the provisions of this Ordinance consistent with the State enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this Ordinance, except that a variance shall not be used for modification of the allowable uses within a district and shall not allow uses that are prohibited.

**VEGETATED OR GRASSED SWALES:** A vegetated earthen channel that conveys storm water, while treating the storm water by biofiltration. Pollutants are removed by both filtration and infiltration.

**VEGETATION:** The sum total of plant life in some area; or a plant community with distinguishable characteristics.

**VERTEX:** The corner point of a triangle, rectangle, or other geometric figure bounded by lines.

**WASTE:** Infectious waste, nuclear waste, pathological waste, sewage sludge, solid waste, and hazardous waste.

**WASTE, HAZARDOUS:** Any refuse, sludge, or other waste material or combination of refuse, sludge, or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may:

- A. Cause or significantly contribute to an increase in mortality or an increase in serious or irreversible, or incapacitating reversible illness; or
- B. Pose a substantial present or potential hazard to human health or the environment when not properly treated, stored, or transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammable, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

**WATER BODY:** A body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

**WATER QUALITY VOLUME (WQV):** This is a term used by the Minnesota Pollution Control Agency and is defined as one-half (½) inch of rainfall from the new impervious surfaces created by land disturbance activities.

**WATERCOURSE:** A channel or depression through which water flows year-round or intermittently, such as rivers, streams, or creeks.

**WET DETENTION FACILITY:** A permanent man-made structure for the temporary storage of runoff which contains a permanent pool of water. This basin provides temporary storage of surface runoff and is designed to release the stored runoff at a gradual rate.

**WETLANDS:**

- A. Hydric Soils: Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

- B. Hydrophytic Vegetation: Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- C. Wetlands: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this Ordinance, wetlands must have the following three (3) attributes:
  - 1. Have a predominance of hydric soils.
  - 2. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
  - 3. Under normal circumstances, support a prevalence of such vegetation.

**WIND ENERGY CONVERSION SYSTEM (WECS):** Any device that is designed to convert wind power to another form of energy such as electricity or heat (also referred to by such common names as wind charger, wind turbine and windmill).

**YARD:** Any open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the mean horizontal distance between the lot line and the main building shall be used except in the case of a lot containing or adjacent to all or a portion of a wetland, in which case the distance between the nearest edge of the wetland and the main building shall be as provided by Section 10-16-5 (General Performance Standards-Wetlands) of this Ordinance.

**YARD, FRONT:** The area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located. In the case of a corner lot abutting one or more streets, both yards shall be considered front yards.

**YARD, REAR:** A yard extending across the full width of the lot lying between the rear lot line of the lot and the nearest line of the principal building.

**YARD, REQUIRED:** That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

**YARD, SIDE:** A yard between the side line of the lot and the nearest line of the principal building and extending from the front lot line of the lot to the rear yard.

**ZONING ADMINISTRATOR:** The person designated by the City Council to be the zoning administrator for the City of St. Francis.

**ZONING DISTRICT:** An area or areas of the City (as delineated on the zoning map) set aside for specific uses with specific regulations and provisions for use and development as defined by this Ordinance.

**ZONING DISTRICT, OVERLAY:** A zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

**ZONING DISTRICT, UNDERLYING (BASE):** All zoning districts except overlay zoning districts.

**ZONING MAP:** The map or maps incorporated into this Ordinance as part thereof, designating the zoning districts.

(Ord 206, SS 11/23/15)

## CHAPTER 3

### ADMINISTRATION - GENERAL

#### SECTION:

- 10-3-1: Development Application Procedures
- 10-3-2: Decision Process
- 10-3-3: Application Procedure
- 10-3-4: Expiration of Zoning Approvals
- 10-3-5: Performance Agreement
- 10-3-6: Appeals from Administrative Action
- 10-3-7: Cost Recovery
- 10-3-8: Certification of Taxes Paid
- 10-3-9: Enforcement

**10-3-1: DEVELOPMENT APPLICATION PROCEDURES:** Certain applications of this Ordinance require study and action by the City Council, the Planning Commission, City staff, the applicant, and various experts, in varying combinations dependent upon the nature of the non-standard use or proposed use or change. These include proposed conditional use permits, variances, site plan reviews, Zoning Ordinance text or map amendments, and appeals on zoning questions.

**10-3-2: DECISION PROCESS:** The City Council, acting as the Board of Adjustment and Appeals under Minnesota Statutes 462.357(6), 462.359(4), and 15.99, shall make the decisions within the legislative and executive framework of the City on applicable development applications.

**10-3-3: APPLICATION PROCEDURE:** An application for a Zoning Ordinance text or map amendment, conditional use permit, interim use permit, variance, and/or site plan review shall be processed in accordance with the following procedure:

- A. **Timeline.** Pursuant to Minnesota Statutes 15.99, an application for an amendment shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant.
- B. **Application.** Applications shall be filed with the Zoning Administrator on an official application form of the City, accompanied by a fee as established by City Council resolution. The application shall also be accompanied by detailed written and graphic materials fully explaining the proposed change, development, or use. The number of copies to be provided and any additional data shall be determined

by the Zoning Administrator. Applications shall be complete before they are accepted. A complete application shall include the following information:

1. A City application form(s) relating to the request signed by all persons with an interest in the subject property affected by the request. A copy of an Owner's Duplicate Certificate of Title or other approved documentation of interest shall also be submitted with the signed application form(s).
  2. All supporting information required by this Ordinance and/or outlined in Section 10-9-6 of this Ordinance and application documents included with the City application forms.
  3. Payment of all fees associated with the applicable application(s). Applicants shall be responsible for all costs incurred by the City and/or employed consultants. Expenses shall be charged against the required escrow accounts in accordance with Section 10-3-7 of this Ordinance.
  4. A pre-application meeting shall be required by City staff at which the appropriate application procedures, requirements and applicable provisions relating to the request will be reviewed and explained.
  5. An application will be deemed complete unless the applicant receives written notice within fifteen (15) business days exclusive of Saturdays, Sundays and legal holidays of its submission indicating it is not complete and indicating what information is missing. This notice shall be considered given by its deposit in the U.S. Mail, first class postage prepaid, addressed to any listed applicant at the address given on the application form. In the event the applicant fails to provide an address on the application form, this notice requirement for incomplete applications shall be deemed waived by the applicant.
- C. **Additional Data.** The City Council, Planning Commission, and City staff may request additional information from the applicant concerning the application or may retain expert opinions at the expense of the City, or may require as a condition of proceeding with its consideration of any matter, that the applicant furnish expert opinion and data at the expense of the application.
- D. **Technical Reports.** The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where applicable, and provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council. The technical reports are to be entered in and made part of the record of the Planning Commission and forwarded to the City Council.
- E. **Notice of Hearing.** For applications involving zoning amendments, conditional use permits, and variances, the Zoning Administrator shall set a date for a public



hearing. Notice of such hearing shall consist of a legal property description, a general description of the property location, and a description of the request to be published in the official newspaper at least ten (10) days prior to the hearing. Written notices shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property, according to the records available to the City within three hundred fifty (350) feet of each parcel included in the request.

- F. **Notice Not Received.** Failure of the City to send, or a property owner to receive notice shall not invalidate any proceedings under this Ordinance, provided that a bona fide attempt has been made to comply with the requirements of this Ordinance.
- G. **Hearing.** After receipt of the report of the Zoning Administrator, the Planning Commission shall conduct the public hearing and consider the application.
- H. **Presentation of Application.** The applicant or a representative of the applicant shall appear before the Planning Commission in order to present the case for the application and to answer questions concerning the request. Failure of the proponent to appear at either the Planning Commission or City Council, consideration of the matter may constitute grounds for rejection of the application. The Planning Commission and the City Council may each require sworn testimony and a verified transcription of the proceedings at the expense of the City. The applicant shall have the same privilege of presenting sworn testimony and may provide for a transcript of the proceedings at the expense of the applicant.
- I. **Recommendations of Planning Commission.** The Planning Commission shall recommend such actions or conditions relating to the application as deemed necessary or desirable to carry out the intent and purpose of this Ordinance and the Comprehensive Plan. Such recommendation shall be either in the minutes or by written resolution and forwarded to the City Council.
- J. **Record Before City Council.** The Zoning Administrator shall place the report and recommendation of the Planning Commission and the City staff on the agenda for the next regular City Council meeting after Planning Commission action, or the expiration of sixty (60) days after the first consideration by the Commission, whichever is earlier, subject to the limitations of Minnesota Statutes 15.99. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- K. **City Council Review.** Subject to the limitations of Minnesota Statutes 15.99, the City Council shall act upon an application after it has received the report and recommendation from the Planning Commission. If, upon receiving the reports and recommendations of the Planning Commission and Zoning Administrator, the City Council desires further consideration, or finds that inconsistencies exist

in the review process, data submitted or recommended action, the City Council may, before taking final action, refer the matter back to the Planning Commission with a statement detailing the reasons for referral.

**L. City Council Action.**

1. Approval of a proposed Zoning Ordinance text or map amendment shall require a four-fifths (4/5) vote of all members of the City Council.
2. Approval of an amendment shall take effect thirty (30) days after the date of publication or at such later date as fixed therein.
3. Approval of a request for conditional use permit, interim use permit, or variance shall require passage by a three-fifths (3/5) vote of all members of the City Council.
4. Approval of a request for site and building plan review shall require passage by a majority vote of the City Council.
5. Denial of applications for amendment shall be accompanied by written findings of fact of the City Council, including supporting data setting forth the reasons for the denial in terms of the ways in which the proposed use fails to meet the standards and intent of the Comprehensive Plan and/or this Chapter and is otherwise injurious to the public health, safety and welfare.

**M. Notice to Applicant.** The Zoning Administrator shall notify the applicant of the decision of the City Council in writing, including any relevant resolution and findings which may have been passed by the City Council.

**N. Filing of Notice of Action.** A certified copy of any Zoning Ordinance amendment, conditional use permit, interim use permit, or variance authorized shall be filed with the Anoka County Recorder.

**O. Reconsideration.** Whenever an application has been considered and denied by the City Council, a similar application affecting substantially the same property shall not be considered again by the Planning Commission or City Council before the expiration of six (6) months from the date of its denial and any succeeding denials. However, a decision to reconsider such matter may be made by a majority vote of all members of the City Council at any time, according to the rules of order adopted by the Council.

#### **10-3-4: EXPIRATION OF ZONING APPROVALS:**

- A. Unless otherwise specified by the City Council at the time it is authorized, a conditional use permit, interim use permit, variance, or site and building plan approvals, shall be null and void and expire if the applicant fails to implement such approvals and fulfill each and every condition attached thereto within one (1) year from the date of its authorization unless a petition for an extension of time in which to implement the approved plans has been granted by the Zoning Administrator provided that:
1. The extension is requested in writing and filed with the City at least thirty (30) days prior to the expiration of the initial conditional use permit request.
  2. The request for extension states facts demonstrating that a good faith attempt has been made to complete or utilize the use or activity permitted in the approval.
  3. A maximum of one (1) administrative extension shall be granted.
  4. The extension shall not exceed ninety (90) days from the initial expiration date.
  5. There shall be no charge for the filing of a petition for an administrative extension.
- B. Upon receiving a recommendation from the Planning Commission and City staff, the City Council may grant an extension of greater than ninety (90) days provided that:
1. The conditions described in Sections 10-3-4.A.1 through 10-3-4.A.3 of this Ordinance are satisfied.
  2. The extension shall not exceed one (1) year from the initial expiration date.
  3. The filing of a petition for extension is subject to fee requirements established by City Council resolution.

**10-3-5: PERFORMANCE AGREEMENT:** Upon approval of a conditional use permit, interim use permit, variance, site plan, administrative permit, grading permit, and wetland permit, the City may require the applicant to enter into a performance agreement prior to the issuing of building permits or initiation of work on the proposed improvement or development. Said agreement shall guarantee conformance and compliance with the conditions of the approval and the codes of the City. The

performance agreement shall be prepared and approved by the City Attorney and shall contain, but not be limited to, the following items and conditions:

- A. **Performance Security.** The performance agreement shall require the applicant to provide financial security to assure compliance with the agreement and conditions of the approval. The security may be in the form of a surety bond, cash escrow, certificate of deposit, irrevocable letter of credit, securities or cash deposit. The security shall be in an amount determined by the City Engineer or Building Official under the direction of and approved by the Council, to cover estimated costs of labor and materials for the proposed improvements or development. The project can be handled in stages with prior approval of the City.
- B. **Security Release.** The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the application approval and Building Code of the City has been issued by the City Building Official.
- C. **Security Forfeiture.** Failure to comply with the conditions of the application approval and/or the ordinances of the City shall result in forfeiture of the security.
- D. **Hold Harmless and Indemnification of City.** The applicant shall agree to indemnify and hold harmless the City and its agents and employees against any and all claims, demands, losses, damages and expenses (including attorney fees) arising out of or resulting from the applicant's negligent or intentional acts, violation of any safety law, and regulation or any code in the performance of this agreement, without regard to any inspection or review made or not made by the City, its agents or employees or failure to take any other prudent precaution. In the event any City employee, agent or representative shall come under the direct or indirect control of the applicant, or the City, upon failure of the applicant to comply with any conditions of the approval, performs said conditions pursuant to the bond, the applicant shall indemnify and hold harmless the City, its employees, agents and representatives for its own negligent or intentional acts in the performance of the applicant's required work under the permit.
- E. **Fees.** The applicant shall agree to pay any and all attorney and consultant fees incurred by the City to enforce the terms and conditions of any application approval or provisions of any performance agreement relating to said permits.

**10-3-6: APPEALS FROM ADMINISTRATIVE ACTION:** The City Council, serving as the Board of Appeals and Adjustments, shall, after receiving the written report of the Zoning Administrator, make findings of fact and make a decision on appeals where it is alleged by the appellant that error has occurred in any order, interpretation requirement, decision or determination made by any administrative office or the Zoning Administrator in the enforcement of this Ordinance. However, said appeal shall be filed not later than

sixty (60) days after the applicant has received a written order from the City or the appeal shall be void.

#### **10-3-7: COST RECOVERY:**

- A. **Purpose.** The costs of the City for receiving, analyzing, processing, hearing and final process for requests of changes, modification, or special consideration under this Ordinance, such as requests for amendments (map or text), site and building plan reviews, conditional use permits, interim use permits, and variances are considered to be unique to the applicant requesting such consideration, and it is the intent of this section to provide that all costs of the City occasioned by such requests shall be borne by the applicant. The reimbursement to the City shall be limited to actual costs of the City. Actual costs shall include all engineering, legal, planning, or other consultant fees or costs paid by the City for other consultants for expert review of a development application.
- B. **Base Zoning Fee.** Each applicant shall pay a non-refundable base zoning fee at the time an application is presented to the City for a zoning change of any nature, site and building plan review, a conditional use, an interim use, or a variance. This fee is intended to reimburse the City for its costs for administrative processing a development application. If this fee proves to be insufficient to cover such costs, such additional costs will be charged as a part of the zoning deposit, or the supplemental zoning deposit.
- C. **Escrow Deposit.** In addition to the non-refundable base zoning fee, each applicant shall pay an escrow deposit in an amount established by City Council on the fee schedule at the time of application. All actual costs including, but not limited to, planning, engineering, legal, or other consultant fees or costs, incurred by the City in the processing of the application shall be paid from or reimbursed to the City, from the escrow deposit. Actual costs not fully paid or reimbursed from the base zoning fee shall be paid or reimbursed from this escrow or supplemental deposit.
- D. **Supplemental Deposit.** At any time while the application is pending and before its final conclusion, if the Zoning Administrator determines that the amount of the escrow deposit required by Section 10-3-7.C of this Ordinance is or is estimated to be insufficient to pay for present or anticipated actual costs of the application, a supplementary deposit shall be required by the Zoning Administrator to be paid by the applicant. The one (1) or more supplemental deposits shall be in an amount sufficient to pay all actual costs of the City.
- E. **Refunds – Administrative Costs.** The base zoning fee, intended to cover administrative costs, is non-refundable.

- F. **Refunds – Direct Costs.** If the direct costs of the City in processing the application are less than the amount of the escrow deposit and any supplemental deposit, any such unexpended amount shall be refunded to the applicant upon the conclusion of the proceedings, and any such costs in excess of the supplemental deposits on hand with the City shall be paid by the applicant prior to completion of the proceedings by the City.

**10-3-8: CERTIFICATION OF TAXES PAID:** Prior to approving an application for amendment, conditional use permit, interim use permit, variance, or administrative permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the application relates.

**10-3-9: ENFORCEMENT:** This Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute in the name of the City of St. Francis any appropriate actions or proceedings against a violator. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator. That person shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

A. **Enforcement Procedure.** For the enforcement of the provisions of the Zoning Ordinance, the first zoning violation notice shall be sent by regular mail, and the second notice will be sent by certified mail or return receipt requested to the property owner of which the violation is taking place. A copy of the zoning violation notice shall be sent to the City Council, Planning Commission, Police Chief, and City Attorney. The zoning violation notice shall contain the following information:

1. A description of the violation which is taking place.
2. A picture (if possible) of the violation which is taking place.
3. Location and/or address of the property at which the violation is taking place.
4. Identification of the section of the Zoning Ordinance which is being violated.
5. Date the violation was discovered.
6. Steps necessary to correct the violation.

7. Deadline in which the violation must be corrected, which is at the discretion of the Zoning Administrator, but which in no case may be longer than fifty (50) days from the date the first notice is mailed.
- B. **Correction of the Zoning Violation.** Correction of the violation in the manner stipulated by the zoning notice violation, at any point during this enforcement process, shall deem the zoning violation notice null and void, and enforcement activity shall cease.
- C. **Failure to Correct Zoning Violation – Enforcement Remedies.** Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies:
1. **Withhold Permits.** The City shall have the authority to withhold any permits or City approvals which are necessary until the violation is corrected to the City's satisfaction.
  2. **Stop Work Order.** The City shall have the authority to issue a stop work order on the subject violation.
  3. **Abatement.** The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice.
  4. **Injunctive Relief.** The City shall have the authority to seek an injunction in court to stop any violation of this Ordinance.
  5. **Civil Remedies.** The City shall have the authority to institute appropriate civil action to enforce the provisions of this Ordinance, and shall recover reasonable court costs and attorney's fees which are incurred due to the enforcement of the subject violation, at the discretion of the court.
  6. **Assessment.** The City shall have the authority to use the provisions of Minnesota State Statutes 429, assess any charge against the property benefited, and any such assessment shall, at the time at which taxes are certified to the Anoka County Auditor, be certified for collection in the manner that other special assessments are so certified.
  7. **Criminal Remedies.** The City shall have the authority to institute appropriate misdemeanor criminal action for a violation of this Ordinance.
  8. **Cumulative Remedies.** The powers and remedies of this section shall not be individually limited and are not exclusive. The powers and remedies of this section are cumulative and all power and remedies may apply, as well as any other remedies allowed under State law.

- D. **Revocation.** Instead of, or in addition to any of the remedies in Subd. C., failure to comply with the conditions of a conditional use permit, interim use permit, or the ordinances of the City shall result in the conditional use permit or interim use permit being revoked by the City Council. Revocation proceedings shall require a public hearing before the City Council, with notice and due process according to Section 10-3-3, except that the City Council may waive Planning Commission review and comment.



## CHAPTER 5

### ADMINISTRATION - AMENDMENTS

#### SECTION:

- 10-5-1: Initiation
- 10-5-2: Procedure
- 10-5-3: Criteria
- 10-5-4: Effectuation

**10-5-1: INITIATION:** The City Council, Planning Commission, or City Administrator may initiate a request to amend the text or the district boundaries of this Ordinance. The procedural requirements of this section shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate. Any resident of the City may initiate a request to amend the text of this Ordinance.

**10-5-2: PROCEDURE:** Application for an amendment of this Ordinance (text or map) requires a public hearing and is to be processed in accordance with the procedures set forth in Section 10-3-3 of this Ordinance.

**10-5-3: CRITERIA:** The Planning Commission shall consider possible effects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following factors:

- A. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
- B. The proposed use is or will be compatible with present and future land uses of the area.
- C. The proposed use conforms with all performance standards contained in this Ordinance.
- D. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
- E. Traffic generation by the proposed use is within capabilities of streets serving the property.

**10-5-4: EFFECTUATION:** Approval of an amendment of this Ordinance (text or map) shall become effective upon its passage and publication.

## CHAPTER 6

### ADMINISTRATION – CONDITIONAL USE PERMITS

#### SECTION:

- 10-6-1: Purpose
- 10-6-2: Procedure
- 10-6-3: Criteria
- 10-6-4: General Performance Standards
- 10-6-5: Revocation
- 10-6-6: Permit Modifications
- 10-6-7: Abandonment

**10-6-1: PURPOSE:** The purpose of a conditional use permit is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. A conditional use is a use which because of certain characteristics cannot be properly classified as a permitted use in the zoning district within which it is proposed. Conditional use permits are designed to meet the problem which arises where certain uses, although generally compatible with the basic use classification of a particular zone, should not be permitted to be located as a matter of right in every area included within the zone because of hazards inherent in the use itself or special problems which its proposed location may present. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining streets, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

**10-6-2: PROCEDURE:** An application for a conditional use permit requires a public hearing and is to be processed in accordance with the procedures outlined in Section 10-3-3 of this Ordinance.

**10-6-3: CRITERIA:** The Planning Commission shall consider possible effects of the proposed conditional use. Its judgment shall be based upon, but not limited to, the following factors:

- A. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Official City Comprehensive Plan.
- B. The proposed use is or will be compatible with present and future land uses of the area.

- C. The proposed use conforms with all performance standards contained in this Ordinance.
- D. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
- E. Traffic generation by the proposed use is within capabilities of streets serving the property.

**10-6-4: GENERAL PERFORMANCE STANDARDS:** As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but not be limited to, the following general performance standards and criteria:

- A. The use and the site in question shall be served by a street of sufficient capacity to accommodate the type and volume of traffic which would be generated and adequate right of way shall be provided.
- B. The site design for access and parking shall minimize internal as well as external traffic conflicts and shall be in compliance with Chapter 19 of this Ordinance.
- C. If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.
- D. Adequate off-street parking and off-street loading shall be provided in compliance with Chapter 19 of this Ordinance.
- E. Loading areas and drive-up facilities shall be positioned so as to minimize internal site access problems and maneuvering conflicts, to avoid visual or noise impacts on any adjacent residential use or district, and provided in compliance with Chapter 19 of this Ordinance.
- F. Whenever a non-residential use is adjacent to a residential use or district, a buffer area with screening and landscaping shall be provided in compliance with Chapter 20 of this Ordinance.
- G. General site screening and landscaping shall be provided in compliance with Chapter 20 of this Ordinance.
- H. All exterior lighting shall be so directed so as not to cast glare toward or onto the public right of way or neighboring residential uses or districts, and shall be in compliance with Section 10-16-8 of this Ordinance.

- I. Potential exterior noise generated by the use shall be identified and mitigation measures, as may be necessary, shall be imposed to ensure compliance with Section 10-16-12 of this Ordinance.
- J. The site drainage system shall be subject to the review and approval of the City Engineer.
- K. The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.
- L. All signs and informational or visual communication devices shall be in compliance with Chapter 23 of this Ordinance.
- M. The use and site shall be in compliance with any Federal, State or County law or regulation that is applicable and any related permits shall be obtained and documented to the City.
- N. Any applicable business licenses mandated by the City Code are approved and obtained.
- O. The hours of operation may be restricted when there is judged to be an incompatibility with a residential use or district.
- P. The use complies with all applicable performance standards of the zoning district in which it is located and where applicable, any non-conformities shall be eliminated.
- Q. All additional conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.

**10-6-5: REVOCATION:** The Planning Commission may recommend, and the City Council may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this Ordinance, City codes, or other applicable regulations. The City Council or Planning Commission shall initiate an application and the Zoning Administrator shall notify the responsible person that they have an opportunity to show cause why the permit should not be revoked. The application shall be processed and considered pursuant to Section 10-3-3 of this Ordinance. The Zoning Administrator shall provide the responsible person a copy of the proceedings and findings of the Planning Commission and City Council.

**10-6-6: PERMIT MODIFICATIONS:** Conditional Use Permits must be maintained consistent with the terms of their approval. Modifications and amendments shall be processed and reviewed consistent with the terms of this Chapter.

**10-6-7: ABANDONMENT:** In the event the conditional use is discontinued, the permit shall lapse by non-use six (6) months after notice from the City.

## CHAPTER 7

### ADMINISTRATION – INTERIM USE PERMITS

#### SECTION:

- 10-7-1: Purpose
- 10-7-2: Procedure
- 10-7-3: Criteria
- 10-7-4: General Performance Standards
- 10-7-5: Termination
- 10-7-6: Abandonment

**10-7-1: PURPOSE:** The purpose and intent of allowing interim uses is:

- A. To allow a use for a temporary 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 harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

**10-7-2: PROCEDURE:** An application for an interim use permit requires a public hearing and is to be processed in accordance with the procedures set forth in Section 10-3-3 of this Ordinance.

**10-7-3: CRITERIA:** The Planning Commission shall consider possible effects of the proposed interim use. Its judgment shall be based upon, but not limited to, the factors outlined in Section 10-6-3 of this Ordinance.

**10-7-4: GENERAL PERFORMANCE STANDARDS:** As may be applicable, the evaluation of any proposed interim use permit request shall be subject to and include, but not be limited to, the general performance standards and criteria outlined in Section 10-6-4 of this Ordinance, and:

- A. The date or event that will terminate the use can be identified with certainty.
- B. The use will not impose additional unreasonable costs on the public.
- C. The user agrees, in writing, to any conditions that the City Council deems appropriate for permission of the use, including the specified termination date or event.
- D. The use is specifically allowed as an interim use in the respective zoning district.

**10-7-5: TERMINATION:** An interim use shall terminate on the happening of any of the following events, whichever occurs first:

- A. The date or event stated in the permit.
- B. Upon violation of conditions under which the permit was issued.
- C. The property is redeveloped to a permitted or conditional use allowed in the respective zoning district.

**10-7-6: ABANDONMENT:** In the event the interim use is discontinued, the permit shall lapse by non-use six (6) months after notice from the City.



## CHAPTER 8

### ADMINISTRATION - VARIANCES

#### SECTION:

- 10-8-1: Purpose
- 10-8-2: Procedures
- 10-8-3: Board of Adjustment and Appeals
- 10-8-4: Criteria
- 10-8-5: Conditions

**10-8-1: PURPOSE:** The purpose of a variance is to provide for deviations from the literal provisions of this Ordinance in instances 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 keeping with the spirit and intent of this Ordinance. (Ord 185, SS, 6-23-13)

**10-8-2: PROCEDURES:** An application for variance from the provisions of this Ordinance requires a public hearing and is to be processed in accordance with the procedures set forth in Section 10-3-3 of this Ordinance.

**10-8-3: BOARD OF ADJUSTMENT AND APPEALS:** The City Council shall act as the Board of Adjustment and Appeals.

**10-8-4: CRITERIA:** The Board of Adjustment and Appeals shall not approve any variance request unless they find all of the following criteria have been met: (Ord 185, SS, 6-23-13)

- A. A variance shall only be granted when it is in harmony with the general purposes and intent of the ordinance.
- B. A variance shall only be granted when it is consistent with the comprehensive plan.
- C. A variance may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute a practical difficulty. In order for a practical difficulty to be established, all of the following criteria shall be met:

1. The property owner proposes to use the property in a reasonable manner. In determining if the property owner proposes to use the property in a reasonable manner, the board shall consider, among other factors, whether the variance requested is the minimum variance which would alleviate the practical difficulty and whether the variance confers upon the applicant any special privileges that are denied to the owners of other lands, structures, or buildings in the same district.
  2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
  3. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.
- D. The variance does not involve a use that is not allowed within the respective zoning district.

**10-8-5: CONDITIONS.** The Board of Adjustment and Appeals shall in granting any variance under the provisions of this Section designate any conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provisions to which the variance is granted, as to light, air, and the public health, safety, comfort, convenience, and general welfare. (Ord 185, SS, 6-23-13)

## CHAPTER 9

### ADMINISTRATION – SITE AND BUILDING PLAN REVIEW

#### SECTION:

- 10-9-1: Purpose
- 10-9-2: Exceptions to Review
- 10-9-3: Sketch Plan
- 10-9-4: Procedure
- 10-9-5: Criteria
- 10-9-6: Information Requirement
- 10-9-7: Plan Modifications
- 10-9-8: Building Codes
- 10-9-9: Plan Agreements
- 10-9-10: Expiration of Approval

**10-9-1: PURPOSE:** The purpose of site and building plan review is to establish a formal site and building plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Ordinance in advance of building permit issuance.

**10-9-2: EXCEPTIONS TO REVIEW:** Except in those cases specifically cited within this Ordinance, the following shall be exempted from the foregoing requirements of this Section:

- A. Projects which require variances, subdivision approval, conditional use permits, other zoning permits or amendments. The site and building plan is required for such applications, however, the review will be conducted as part of the review for such land use application.
- B. New construction (including modifications, additions and enlargements) of agricultural-related buildings, single-family detached dwellings and two-family attached dwellings.
- C. Modifications additions or enlargements to multiple family residential, commercial, industrial and institutional buildings which do not increase the gross floor area more that twenty-five (25) percent.
- D. Modifications to multiple family residential, commercial, industrial and institutional buildings which alter the design or materials of any single exterior building wall less than twenty-five (25) percent.

- E. Changes in the use of leasable space in single or multi-tenant buildings where a change of tenant does not intensify the use of the space nor require additional off-street parking.
- F. Expansion of off-street parking which is not related to modifications, additions or enlargements to the gross floor area of an existing building.
- G. Construction of permitted accessory buildings or structures.

**10-9-3: SKETCH PLAN:**

- A. Prior to the formulation of a site plan, applicants may present a sketch plan to the Zoning Administrator prior to filing of a formal application. The plan shall be conceptual but shall be drawn to scale with topography of a contour interval not greater than two (2) feet and may include the following:
  - 1. The proposed site with reference to existing development, topography, and drainage conditions on adjacent properties, at least to within two hundred (200) feet.
  - 2. Natural features.
  - 3. General location of existing and proposed structures including signs.
  - 4. Tentative access, circulation and street arrangements, both public and private.
  - 5. Amenities to be provided such as recreational areas, open space, walkways, landscaping, etc.
  - 6. General location of parking areas.
  - 7. Proposed public sanitary sewer, water and storm drainage.
  - 8. A statement showing the proposed density of the project with the method of calculating said density also shown.
  - 9. Other items as may be deemed necessary by the Zoning Administrator.
- B. The Zoning Administrator shall have the authority to refer the sketch plan to the Planning Commission and/or City Council for discussion, review, and informal comment. Any opinions or comments provided to the applicant by the Zoning Administrator, Planning Commission, and/or City Council shall be considered advisory only and shall not constitute a binding decision on the request.

- C. Sketch plan review shall not activate the sixty (60) day time requirements pursuant to Minnesota Statutes 15.99, as may be amended.

**10-9-4: PROCEDURE:** Pursuant to Minnesota Statutes 15.99, an application for site plan approval shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant. Additional City requirements are as follows:

- A. **Filing Of Request:** Request for site plan approval, as provided within this Title, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. Such application shall also be accompanied by detailed written and graphic materials, the number and size as prescribed by the Zoning Administrator, fully explaining the proposed change, development, or use. The request shall be considered as being officially submitted and complete when the applicant has complied with all specified information requirements. In cases where an application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within fifteen (15) days of the date of submission.
- B. **Proof Of Ownership Or Authorization:** The applicant shall supply proof of title and the legal description of the property for which the site plan approval is requested, consisting of an abstract of title and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested site plan application.
- C. **Technical Reports:** The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in conducting an evaluation of the request.
- D. **Additional Information:** City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert assistance with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to evaluate the request and/or to establish performance conditions in relation to all pertinent sections of this Title. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- E. **Meeting With Zoning Administrator and/or Staff:** The applicant or a representative thereof shall meet with the Zoning Administrator and/or City staff in order to present information and answer questions concerning the proposed requests.
- F. **Decision:** The Zoning Administrator shall reach a decision on the request within sixty (60) days after the meeting at which the matter was officially submitted.

- G. **Authority:** The Zoning Administrator shall have the authority to refer the site and building plan to the Planning Commission and/or City Council for discussion, review, and formal comment. The review shall follow the procedure established in Section 10-3-3 without the requirement for a public hearing.

**10-9-5: CRITERIA:** The Zoning Administrator shall evaluate the proposed site plan based upon compliance with the City Comprehensive Plan, provisions of this Ordinance, and other applicable chapters of the City Code.

**10-9-6: INFORMATION REQUIREMENT:** The information required for all site plan applications generally consists of the following items, and shall be submitted unless waived by the Zoning Administrator.

- A. Site boundaries, buildings, structures and other improvements shall be identified on-site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
1. Scale of plan (engineering scale only, at one inch equals fifty feet (1" = 50') or less.
  2. North point indication.
  3. Existing boundaries with lot dimension and area.
  4. Existing site improvements.
  5. All encroachments.
  6. Easements of record.
  7. Legal description of the property.
  8. Ponds, lakes, springs, rivers or other waterways bordering on or running through the subject property.
- B. A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
1. Name and address of developer/owner.
  2. Name and address of architect/designer.
  3. Date of plan preparation.

4. Dates and description of all revisions.
  5. Name of project or development.
  6. All proposed improvements, including:
    - a. Required and proposed setbacks.
    - b. Location, setback and dimensions of all proposed buildings and structures.
    - c. Location of all adjacent buildings located within two hundred (200) feet of the exterior boundaries of the property in question.
    - d. Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.
    - e. Location, number, and dimensions of proposed loading spaces.
    - f. Location, width, and setbacks of all curb cuts and driveways.
    - g. Vehicular circulation.
    - h. Sidewalks, walkways, trails.
    - i. Location and type of all proposed lighting, including details of all proposed fixtures.
    - j. Location of recreation and service areas.
    - k. Location of rooftop equipment and proposed screening.
    - l. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
    - m. Location, sizing, and type of water and sewer system mains and proposed service connections.
- C. Grading/stormwater drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:
1. Existing contours at two (2) foot intervals (may be prepared by a Minnesota licensed surveyor).

2. Proposed grade elevations at two (2) foot maximum intervals.
3. A Stormwater Management Report shall be submitted that shows all of the design elements utilized to comply with these requirements. A written narrative shall be included that describes the stormwater system. A summary, calculations, drainage areas, figures, tables and plan sheets shall accompany the report.
4. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
5. Spot elevations (may be prepared by a Minnesota licensed surveyor).
6. Proposed driveway grades.
7. Surface water ponding and treatment areas.
8. Soil borings or tests if requested by the City.
9. Those areas of the site to be used for storage of topsoil and overburden;
10. Proposed stockpile sites.
11. The description and quantity of material to be excavated.
12. The depth of water tables throughout the area.
13. The location and depth of wells and buried garbage, water, and fill.
14. Delineation of the sub-watershed contributing runoff from any/all off-site sources.
15. Proposed and existing sub-watersheds on-site.
16. Emergency overflows and watercourses.
17. For applications proposing infiltration as volume control; identification, description, permeability, HSG Classification and approximate delineation of site soils in both existing and proposed post-development conditions.
18. The existing and proposed OHW and 100-year high water elevations on-site.
19. Description and sketch of all drainage easements or other property interest to be determined for stormwater management purposes.



20. Identify downstream evaluation areas to the point of ten (10) percent and corresponding drainage area(s) on a USGS map.
  21. Storm Water Pollution Prevention Plan (SWPPP).
  22. Determination by a registered professional engineer of the 100-year critical flood elevation before and after the proposed activity.
  23. Computation of the change in flood storage capacity as a result of the proposed alteration or fill.
  24. A map or plan indicating existing on-site wetland, marsh, buffer, shoreland, 100-year floodplain areas and other levels, all referenced to the City datum.
  25. Delineation of all Exceptional Value Wetlands located in downstream evaluation in the flow path.
  26. A wetland alteration permit, if required by the City Code, which shall be processed concurrently with the grading permit application.
- D. Landscaping plan, utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
1. Planting schedule (table) containing:
    - a. Symbols.
    - b. Quantities.
    - c. Common names.
    - d. Botanical names.
    - e. Sizes of plant material.
    - f. Root specification (bare root, balled and burlapped, potted, etc.).
    - g. Special planting instructions.
  2. Location, type and size of all existing significant trees to be removed or preserved.
  3. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).

4. Typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.
  5. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials used.
  6. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.
  7. Delineation of both sodded and seeded areas with respective areas in square feet.
  8. Coverage plan for underground irrigation system, if any.
  9. Where landscape or man-made materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevation.
  10. Other existing or proposed conditions which could be expected to affect landscaping.
- E. Other plans and information as required by the Zoning Administrator including, but not limited to:
1. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
  2. "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.
  3. Fire protection plan.
  4. Type, location and size (area and height) of all signs to be erected upon the property in question.
  5. Vicinity map showing the subject property in reference to nearby highways or major street intersections.
  6. Sound source control plan.
  7. Lighting plan.

**10-9-7: PLAN MODIFICATIONS:** An amended site plan involving major changes shall be applied for and administered in a manner similar to that required for a new site plan.

**10-9-8: BUILDING CODES:**

- A. **Review and Approval.** The review and approval of site improvements pursuant to the requirements of City adopted building and fire codes shall be in addition to the site plan review process established under this Ordinance. The site plan approval process does not imply compliance with the requirements of these building and fire codes.
- B. **Building Permit Required.** Except as hereinafter provided, no person, firm, or corporation shall construct, erect, alter, wreck or move any building or structure or parts thereof within the corporate limits of the City, without first securing a building permit from the City. Application for a building permit shall be made on a blank form to be furnished by the City.
- C. **Building Permit Issuance.** The Building Official shall issue the building permit only after determining that the building plans, together with the application, comply with the terms of this Ordinance and State Building Code.
- D. **Schedule of Fees, Charges, and Expenses.** The City Council shall establish a schedule of fees, charges and expenses, and a collection procedure, for building permits, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Office of the City Clerk, and may be altered or amended only by the City Council.
- E. **Building Permit Information.**
  - 1. All building permit applications shall be accompanied by the following documents, unless exempted by the Building Official:
    - a. Two (2) sets of building plans and specifications showing all easements and elevations (in relation to street grade).
    - b. Two (2) copies of a certified land survey.
    - c. Two (2) copies of a plot plan indicating property lines, building setbacks (from right-of-way) and location of all utility lines.
  - 2. City utility information is available for review by the public during regular office hours at City Hall. If further information is required, the City Engineer shall be contacted at the inquirer's expense. The City accepts no liability for:

- a. Locations of any service lines.
- b. Locations of main lines not shown on City utility lines.
3. The processing of building permits takes up to ten (10) days.
4. Applicants are responsible for pick up and payment of building permits.
5. No building permit will be issued until payment is made in full, including all deposit(s) (if any).
6. Inspections during construction may be made by contacting the Building Department to request an appointment a minimum of twenty-four (24) hours in advance. Applicants are advised that the site address, inspection record, and approved plans shall be posted on site or no inspection will be performed and a re-inspection fee may be charged.
7. Any work which begins prior to issuance of a building permit shall be subject to a civil penalty determined by the City Council.
8. Prior to occupancy of any building, a final inspection must be performed. When a final inspection is completed, the Building Official will issue a certificate of occupancy.

F. **Certificate of Occupancy Requirement.** The purpose of a certificate of occupancy inspection is to insure that all aspects of the plans which were approved for a building permit have been complied with by verifying such with an on-site visual inspection of the project. At the completion of a building project, a request for a certificate of occupancy inspection shall be made for the following types of projects:

1. New residences and residential buildings.
2. New commercial, industrial, and institutional buildings.
3. Additions to existing commercial, industrial, and institutional buildings.
4. Change of commercial, industrial, and institutional use.
5. Changes of occupancy load of a commercial, industrial, and institutional use.
6. Changes of tenancy of a commercial, industrial, and institutional use.

**10-9-9: PLAN AGREEMENTS:** All site and construction plans officially submitted to the City shall be treated as a formal agreement between the applicant and the City. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard, or specifications without prior submission of a plan modification request to the Zoning Administrator for review and approval.

**10-9-10: EXPIRATION OF APPROVAL:**

- A. Unless otherwise specified by the Zoning Administrator, the site plan approval shall become null and void one year after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the approved plan. The property owner or applicant shall have the right to submit an application for time extension in accordance with this Section.
- B. In making its determination on whether an applicant has made a good faith attempt to utilize the site plan approval, the Zoning Administrator shall consider such factors as the type, design, and size of the proposed construction, any applicable restrictions on financing, or special and/or unique circumstances beyond the control of the applicant which have caused the delay.
- C. The request for an extension of site plan approval shall be determined by the Zoning Administrator within fifteen (15) days from the receipt of a complete request.
- D. In cases where the application is reviewed by the Planning Commission and City Council, the expiration of approval procedure shall follow the process established in Section 10-3-4 of this Ordinance.

## CHAPTER 10

### PLANNED UNIT DEVELOPMENT

(Ord. 198, Adopted 7/21/14, Effective 8/24/14)

#### SECTION:

- 10-10-1: Purpose
- 10-10-2: General Requirements and Standards
- 10-10-3: Submission Requirements
- 10-10-4: Procedure for Processing a Planned Unit Development
- 10-10-5: PUD Progress Evaluation
- 10-10-6: Amendment of a PUD
- 10-10-7: General Requirements
- 10-10-8: PUD by Conditional Use

**10-10-1: PURPOSE:** The Section is established to provide comprehensive procedures and standards to allow for the mixing of uses and flexibility from the general performance standards to allow for more innovative and efficient design for the development of neighborhoods or areas. The PUD process by allowing flexibility from the strict provisions of this Ordinance related to setbacks, heights, lot area, width, depth, yards, and other equivalent performance standards by rezoning to a PUD District (or as a conditional use when applicable) is intended to encourage:

- A. Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and siting of structures and by the conservation and more efficient use of land in such developments.
- B. Higher standards of site and building design through the use of trained and experienced land planners, architects and landscape architects.
- C. More convenience in location and design of development and service facilities.
- D. The preservation and enhancement of desirable site characteristics such as existing vegetation, natural topography and geologic features and the prevention of soil erosion.
- E. A creative use of land and related physical development which allows a phased and orderly transition of land from activity to another.
- F. An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.

- G. A development pattern in harmony with the objectives of the Comprehensive Plan. (PUD is not intended as a means to vary applicable planning and zoning principals.)
- H. A more desirable and creative environment than might be possible through the strict application on zoning and subdivision regulations of the City.
- I. That the flexibilities granted through the PUD process for the development produce a clear and identified benefit to the City that would not have been achievable following the standard zoning procedure.

**10-10-2: GENERAL REQUIREMENTS AND STANDARDS:**

- A. **Ownership.** An application for PUD 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 ownership, the approved final plan shall be binding on all owners.
- B. **Comprehensive Plan Consistency.** The proposed PUD shall be consistent with the City Comprehensive Plan.
- C. **Compatibility.** The proposed PUD shall be compatible with the adjacent land uses.
- D. **Common Open Space.** Common open space at least sufficient to meet the minimum requirements established in the Comprehensive Plan and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents/users of the PUD shall be provided within the area of the PUD development.
- E. **Operating and Maintenance Requirements for PUD Common Open Space/Facilities.** 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 pre-determined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the City:
  - 1. Dedicated to public, where a community-wide use is anticipated and the City agrees to accept the dedication.
  - 2. Landlord control, where only use by tenants is anticipated.

3. 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 of an individual building unit, parcel, tracts or common area, a declaration of covenants, conditions and restrictions or an equivalent document or document such as specified by Laws 1963, Section 457, Section 11 and a set of floor plans such as specified by Laws 1963, Section 457, Section 13 shall be filed with the City, said filing with the City to be made prior to the filings of said declaration or document or floor plans with the recording officers of the County.
  - b. The declaration of covenants, conditions and restrictions or equivalent document 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 owner's 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, amongst 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, which said expenses are not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its prorated share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which such assessment is made.
  - e. Membership must be mandatory for each owner and all successors or assigns.
  - f. The open space 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 a prorated 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 City Council prior to the approval of the final PUD plan.
- F. **Staging of Public and Common Open Space.** When a PUD provides for common or public open space, and is planned as a staged development over a period of time, 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.
- G. **Density.** The maximum allowable density in a PUD zoning district shall be determined by standards negotiated and agreed upon between the applicant and the City. In all cases, the negotiated standards shall be consistent with the development policies as contained in the Comprehensive Plan. Whenever a PUD is to be developed in stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds one hundred (100) percent of the proposed residential density of the entire PUD. A PUD by conditional use permit must comply with the applicable base zoning district.
- H. **Utilities.** In any PUD, all utilities, including telephone, electricity, gas and cable shall be installed underground, unless approved specifically by the City Council.
- I. **Utility Connections.** The following requirements must be met with regards to utility connections.
- 1. **Water Connections.** Where more than one (1) property is served from the same service line, individual unit shut off valves shall be provided as required by the City.
  - 2. **Sewer Connections.** Where more than one (1) unit is served by a sanitary sewer lateral which exceeds three hundred (300) feet in length, provision

must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.

- J. Roadways. All streets shall conform to the design standards contained in the Subdivision Chapter of the City Code, unless otherwise approved by the City.
- K. Landscaping. In any PUD, landscaping shall be provided according to a plan approved by the City, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the City shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the PUD plan.
- L. Urban/Rural Servicing Requirements. All development shall be carefully phased so as to ensure that all developable land will be accorded a present vested right to develop at such time as services and facilities are available. Lands which have the necessary available municipal facilities and services may be granted approval in accordance with existing City Code provisions and development techniques. Lands which lack the available public facilities and services may be granted approval for development, provided that all applicable provisions of this Chapter, the City Code, and State Regulations are complied with.
- M. Setbacks.
  - 1. Site Perimeter Setbacks:
    - a. For commercial and industrial development, the perimeter setback shall be 30 feet to property zoned for single family residential uses. To all other uses the perimeter setback shall be determined as deemed appropriate by the City based on the nature of the proposed use and the adjacent uses.
    - b. For all other uses, the perimeter setback shall be the same as the setback on adjacent property.
  - 2. No building shall be located less than fifteen (15) feet from the back of the curb line along those roadways which are part of the internal street system.
  - 3. No building within the project shall be nearer to another building than 12 feet.
- N. Minimum Lot Size. The minimum lot size for a Planned Unit Development is one (1) acre.

**10-10-3: SUBMISSION REQUIREMENTS.** Five (5) large scale copies and thirteen (13) reduced scale (not less than 11" x 17") copies of the following exhibits, analysis and plans shall be submitted to the City during the PUD process, at the times specified in Sections 3 or 4 of this Chapter, as applicable. If, in the opinion of the Zoning Administrator, reduced scale drawings (11" x 17") are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility.

A. General Concept Stage:

1. General Information:

- a. The landowner's name and address and their interest in the subject property.
- b. The applicant's name and address if different from the landowner.
- c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer, and surveyor.
- d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidences as the City Attorney may require to show the status of title or control of the subject property.

2. Present Status:

- a. The address and legal description of the subject property.
- b. The existing zoning classification and present use of the subject property and all lands within one thousand (1,000) feet of the subject property.
- c. A map depicting the existing development of the subject property and all land within one thousand (1,000) feet thereof and indicating the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within one hundred (100) feet of the subject property.

- 3. A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its

relationship to the Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.

4. Site Conditions. Graphic reproductions of the existing site conditions at a scale of one hundred (100) feet.
  - a. Contours - minimum one-half ( $\frac{1}{2}$ ) foot intervals.
  - b. Location, type and extent of tree cover.
  - c. Slope analysis.
  - d. Location and extent of water bodies, wetlands and streams and floodplains within three hundred (300) feet of the subject property.
  - e. Significant rock outcroppings.
  - f. Existing drainage patterns.
  - g. Vistas and significant views.
  - h. Soil conditions as they affect development.

All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

5. Schematic drawing of the proposed development concept including but not limited to the general location of major circulation elements, public and common open space, and internal and surrounding land uses.
6. Schematic drawing of resubdivision plans for the proposed development, if any, in the event of sanitary sewer availability.
7. A statement of the estimated density/intensity of use proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
  - a. Area devoted to uses.
  - b. Area devoted to use by building type.
  - c. Area devoted to common open space.
  - d. Area devoted to public open space.
  - e. Approximate area devoted to streets.
  - f. Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
8. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and

dwelling units to be provided or constructed during each such stage, and the overall chronology of development to be followed from stage to stage.

9. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
  10. General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
  11. Schematic utilities plans indicating placement of water, sanitary and storm sewers.
  12. The Zoning Administrator may excuse an applicant from submitting any specific item of information or document required in this stage, which is determined to be unnecessary to the consideration of the specific proposal for PUD approval.
  13. The Zoning Administrator may require the submission of any additional information or documentation which is determined to be necessary or appropriate for full consideration of the proposed PUD or any aspect or stage thereof.
- B. Development Stage. Development stage submissions should depict and outline the proposed implementation of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include but not be limited to:
1. Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan.
  2. Five (5) sets of preliminary plans, drawn to a scale of not less than one inch equals one hundred (100) feet or scale requested by the City and thirteen (13) reduced scale (not less than 11" x 17") copies containing at least the information specified in this section. If, in the opinion of the Zoning Administrator, reduced scale drawings (11" x 17") are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility.
    - a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the County).

- b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
  - c. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, and existing buildings which will remain, if any.
  - d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all elements.
  - e. Location, designation and total area of all common open space.
  - f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
  - g. Proposed lots and blocks, if any, and numbering system.
  - h. Proposed re-subdivision plan, if any, upon availability of sanitary sewer service.
  - i. The location, use and size of structures and other land uses on adjacent properties.
  - j. Detailed sketches and provisions of proposed landscaping.
  - k. General grading and drainage plans for the developed PUD.
  - l. Any other information that may have been required by the City in conjunction with the approval of the general concept plan.
- 3. An accurate legal description of the entire area within the PUD for which final development plan approval is sought.
  - 4. A tabulation indicating the number of residential dwelling units and expected population.
  - 5. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).

6. Preliminary architectural "typical" plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings, including mobile homes.
  7. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights-of-way, utility lines and facilities, lots, blocks, public and common open space, general landscaping plan, structure, including mobile homes and uses.
  8. Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan shall clearly reflect the site treatment and its conformance with the approved concept plan.
  9. A preliminary plat prepared in accordance with the Subdivision Section of the City Code.
  10. A Soil Erosion Control Plan acceptable to watershed districts, Department of Natural Resources, Soil Conservation Service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.
  11. A statement summarizing all changes which have been made in any document, plan, data or information previously submitted, together with revised copies of any such document, plan or data.
  12. Such other and further information as the Zoning Administrator shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.
  13. The Zoning Administrator may excuse an applicant from submitting any specific item of information or document required in this Section if it is found to be unnecessary to the consideration of the specific proposal for PUD approval.
- C. Final Plan Stage. After approval of a general concept plan for the PUD and approval of a development stage plan for a section of the proposed PUD, the applicant shall submit the following material for review by the City prior to issuance of a building permit.
1. Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.
  2. All certificates, seals and signatures required for the dedication of land and recording of documents.

3. Final architectural working drawings of all structures.
4. A final plat and final engineering plans and specifications for streets, utilities and other public improvements, together with a City/Applicant Agreement for the installation of such improvements and financial guarantees for the completion of such improvements.
5. Re-subdivision plan, if any, upon availability of sanitary sewer service.
6. Any other plan, agreements, or specifications necessary for the City to review the proposed construction. All work must be in conformance with the Minnesota State Uniform Building Code.

**10-10-4: PROCEDURE FOR PROCESSING A PLANNED UNIT DEVELOPMENT:**

- A. Reserved.
- B. Application Conference. Prior to filing of an application for PUD, the applicant of the proposed PUD is encouraged to arrange for and attend a conference with the Zoning Administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this Section before incurring substantial expense in the preparation of plans, surveys and other data.
- C. General Concept Plan.
  1. Purpose. The General Concept Plan provides an opportunity for the applicant to submit a plan to the City showing the basic intent and the general nature of the entire development without incurring substantial cost. The following elements of the proposed general concept plan represents the immediately significant elements for City review and comment.
    - a. Overall maximum PUD density/intensity range.
    - b. General location of major streets and pedestrian ways.
    - c. General location and extent of public and common open space.
    - d. General location of residential and non-residential land uses with approximate type and intensities of development.
    - e. Staging and time schedule of development.



- f. Other special criteria for development.
- 2. Schedule:
  - a. The applicant shall file the concept stage application, together with all supporting data and filing fee as established by City Council resolution.
  - b. Within fifteen (15) working days after verification by the City that the application and required supportive material is completed and adequate, the request shall be processed in accordance with the applicable procedures and schedule as defined by Section 3 or Section 4 of this Ordinance.
- 3. Optional Submission of Development Stage Plan. In the case of single stage PUDs or where the first stage of a multiple stage PUD is to begin immediately, the applicant may initially submit development stage plans and supportive material. In such case, the City shall consider and act upon such plans according to the applicable provision of this Section.
- 4. Effect of Concept Plan Approval. Unless the applicant shall fail to meet time schedules for filing Development Stage and Final Plans or shall fail to proceed with development in accordance with the plans as approved or shall in any other manner fail to comply with any condition of this Chapter or of any approval granted pursuant to it, a General Concept Plan which has been approved shall not be modified, revoked or otherwise impaired pending the application of Development Stage and Final Plans by any action of the City without the consent of the applicant.
- 5. Limitation on General Concept Plan Approval. Unless a Development Stage Plan covering at least ten (10) dwelling units or the area designated in the General Concept Plan as the first stage of the PUD, whichever is greater, has been filed within six (6) months from the date City grants General Concept Plan approval, or in any case where the applicant fails to file Development Stage and Final Plans and to proceed with development in accordance with the provisions of this Chapter and of an approved General Concept Plan, the approval shall be null and void and shall lapse. Upon request by the applicant, the Council at its discretion may extend for additional periods not in excess of six (6) months each the filing deadline for any Development Stage Plan, when, for good cause shown, such extension is necessary.

D. Development Stage:

1. Purpose. The purpose of the Development Stage Plan is to provide a specific and particular plan upon which the Planning Commission will base its recommendation to the Council and with which substantial compliance is necessary for the preparation of the Final Plan.
2. Submission of Development Stage. Upon approval of the General Concept Plan, and within the time established in Section 10-10-4-C-5 of this Ordinance, the applicant shall file with the City a Development Stage Plan consisting of the information and submissions required by Section 10-10-4-B of this Ordinance for the entire PUD or for one or more stages thereof in accordance with a staging plan approved as part of the General Concept Plan. The Development Stage Plan shall refine, implement, and be in substantial conformity with the approved General Concept Plan.
3. Review and Action by City Staff and Planning Commission. Immediately upon receipt of a completed Development Stage Plan, said plan shall be referred to the following City staff and/or official bodies for the indicated action.
  - a. The City Attorney for legal review of all documents.
  - b. The City Engineer for review of all engineering data and the City/Developer Agreement.
  - c. The Building Official for review of all building plans.
  - d. The Zoning Administrator or designated agent for review of all plans for compliance with the intent, purpose and requirements of this Chapter and conformity with the General Concept Plan and Comprehensive Plan.
  - e. The Planning Commission for review and recommendation to the Council.
  - f. When appropriate, as determined by the Zoning Administrator to other special review agencies and governmental jurisdictions.
4. PUD Enactment. Final approval of a PUD conditional use permit or PUD zoning district map amendment shall be considered granted only at the time of Development Stage Plan approval by the City Council.
5. Limitation on Development Stage Plan Approval. Unless a Final Plan covering the area designated in the Development Stage Plan as the first stage of the PUD has been filed within six (6) months from the date City

Council grants Development Stage Plan approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this Chapter and/or an approved Development Stage Plan, the approval shall be null and void and shall expire. Upon application by the applicant, the City Council, at its discretion, may extend for not more than six (6) months, the filing deadline for any Final Plan when, for good cause shown, such extension is necessary.

7. Site Improvements. At any time following the approval of a Development Stage Plan by the City Council, and completion and execution of a PUD agreement governing the project, the applicant may, pursuant to the applicable City Code provisions apply for, and the City may issue, grading permits for the area within the PUD for which Development Stage Plan approval has been given. Securities as appropriate may be required of the applicant.

E. Final Plan:

1. Purpose. The Final Plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other City Code provisions as the land use regulation application to the PUD. The Final Plan is intended only to add detail to, and to put in final form, the information contained in the Development Stage Plan and shall conform to the Development Stage Plan in all respects.
2. Schedule:
  - a. Upon approval of the Development Stage Plan, and within the time established in Section 10-10-4-D-5 of this Section, the applicant shall file with the City a Final Plan consisting of the information and submissions required in Subdivision D of this Section for the entire PUD or for one or more stages. This plan will be reviewed and approved or denied by City staff, subject to appeal.
  - b. Within thirty (30) days of its approval, the applicant shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County Recorder. The applicant shall provide the City with a signed copy verifying County recording within forty (40) days of the date of approval or the approval shall be null and void.
3. Building and Other Permits. Except as otherwise expressly provided herein, upon receiving notice from the City that the approved Final Plan

has been recorded and upon application of the applicant pursuant to the applicable City Code provisions, the City may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan provided, however, that no such permit shall be issued unless the City is first satisfied that the requirements of all codes and City Code provisions in which are applicable to the permit sought, have been met.

4. Limitation of Final Plan Approval. Within one year after the approval of a Final Plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension shall have been granted as hereinafter provided, automatically render void the PUD and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of this Chapter, and other City Code provisions, applicable in the district in which it is located. In such cases, the Council shall forthwith adopt an ordinance repealing the PUD and all PUD approvals and re-establishing the zoning and other City Code provisions that would otherwise be applicable. The time limit established may, at the discretion of the Council, be extended for not more than one year.
5. Inspections During Development:
  - a. Compliance with Overall Plan. Following Final Plan approval of a PUD, or a stage thereof, the City shall, at least annually until the completion of the development, review all permits issued and construction undertaken and compare actual development with the approved development schedule.
  - b. If the City finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, the City shall either by ordinance revoke the PUD, and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take such steps as it shall deem necessary to compel compliance with the Final Plans as approved; or shall require the landowner or applicant to seek an amendment to the Final Plan.

**10-10-5: PUD PROGRESS EVALUATION:** If periodic review of a PUD project is included as a condition to the approval of a PUD, such a project shall be reviewed by the City Council. The Council may, at its discretion, call a public hearing as part of its review. Notice of such hearing shall be given in the same manner as outlined in Section 10-10-4 of this Ordinance.

**10-10-6: AMENDMENT OF A PUD:**

- A. Application Procedures. Any deviation or modification from the terms or conditions of an approved PUD permit or any alteration in a project for which a PUD has been approved shall require an amendment of the original development stage plan. The same application and hearing procedure for an amendment of a PUD shall be followed as was followed with respect to the applicant's initial request, as outlined in Section 10-10-4 of this Ordinance.
- B. Action by the Planning Commission and City Council.
  - 1. The same review procedure by the Planning Commission and City Council shall be followed for an amendment of a PUD permit as was followed with respect to the applicant's initial request, outlined in Section 10-10-4 of this Ordinance. The affirmative vote of four-fifths (4/5) of the full Council shall be required for approval of an amendment of a PUD.
  - 2. Amendments which are minor in nature and do not require amendments in the terms of a PUD Ordinance may be approved by resolution and approved by a simple majority of the Council.

**10-10-7: GENERAL REQUIREMENTS:**

- A. Records. The Zoning Administrator shall maintain a record of all PUDs including information on a project's permitted uses, all pertinent project plans, any conditions imposed on a project by the City Council, and such other information as the Zoning Administrator may deem appropriate.
- B. Withdrawal of an Application. Any application under this Section may be withdrawn by an applicant without prejudice at any time prior to final City Council action thereon.
- C. Financial Security to Assure Compliance. In order to insure that all improvements contained in a PUD are completed in accordance with said plan and to insure that an applicant fully complies with all conditions of a PUD permit, the applicant may be required to post a letter of credit guaranteeing the faithful performance of such work and compliance with such conditions. Such security shall be in a form satisfactory to the City, shall be in an amount established by

the City Council, and shall cover each segment or each phase of a PUD project. The amount of said security may be reduced or a portion of said bond may be released as specific segments of each phase of development have been completed, upon approval by the City Council.

- D. Conveyance of Property Within a PUD Project. In the event that any real property within an approved PUD project is conveyed in total or in part, the buyer(s) thereof shall be bound by all provisions of the PUD permit and the plan of development for that project. However, nothing in this Chapter shall be construed as to make such conveyed property non-conforming with regard to normal zoning standards as long as the conveyed property conforms with the approved PUD permit and the plan of development for a project.

**10-10-8: PUD BY CONDITIONAL USE.** Commercial and Industrial Planned Unit Developments may be approved as a Conditional Use Permit in all Commercial and Industrial Zoning Districts provided the only flexibilities being granted are from performance standards applicable in the underlying zoning district or to allow for the placement of more than one principal structure on a lot.

## CHAPTER 15

### NON-CONFORMING BUILDINGS, STRUCTURES AND USES

#### SECTION:

- 10-15-1: Purpose
- 10-15-2: General Provisions
- 10-15-3: Non-Conforming Uses
- 10-15-4: Non-Conforming Buildings and Structures
- 10-15-5: Non-Conforming Lots

**10-15-1: PURPOSE:** It is the purpose of this chapter to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures and uses will be operated and maintained. It is necessary and consistent with the establishment of the Zoning Ordinance that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Ordinance that all non-conforming uses and structures shall be eventually brought into conformity.

#### **10-15-2: GENERAL PROVISIONS:**

- A. **Continuance of Existing Uses and Buildings:** Any established use or building legally existing prior to the effective date of this Ordinance may, regardless of ownership, be continued in like fashion and activity and shall automatically be considered as having received the required approval at the time of its establishment.
- B. **Moving Non-Conforming Buildings:** Subject to Section 10-17-12 of this Ordinance, no non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted prior to the effective date of this Ordinance, hereof unless such movement shall bring the non-conformance into substantially closer compliance with the requirements of this Ordinance.
- C. **Subdivision:** No parcel of land or portion thereof shall be subdivided if such action results in buildings and/or uses becoming non-conforming.

#### **10-15-3: NON-CONFORMING USES:**

- A. **Effective Date:** Except as provided in Section 10-15-2.B of this Ordinance, the legal use of buildings or land existing on the effective date of this Ordinance,

which do not conform to the provisions of this Ordinance may be continued at the same size and in the same manner of operation; provided, however, that no such non-conforming use of land shall be enlarged or increased, nor shall any such non-conforming use be expanded to occupy a greater area of land than that occupied by such use at the time of the adoption of this Ordinance, nor shall any such non-conforming use be moved to any other part of the parcel of land upon which the same was conducted at the time of the adoption of this Ordinance.

**B. Changes to Non-Conforming Uses:**

1. When a legal, non-conforming use of any structure or parcel of land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
2. A legal, non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.
3. In cases of non-conformities not addressed by Section 10-15-4.C or 10-15-4.D. of this Ordinance, legal, non-conforming single-family and two-family units may be improved to maintain the livability of the dwelling, provided the structure is not expanded.

- C. Discontinuance:** In the event a non-conforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the regulations of the district in which it is located. If a non-conforming use is interrupted or prevented from operating because of governmental action, such as road construction, that period shall not be deemed as discontinuance of the non-conforming use.

**10-15-4: NON-CONFORMING BUILDINGS AND STRUCTURES:**

- A. Proposed Structures:** Any proposed structure which will, under this Ordinance, become non-conforming but for which a building permit has been legally granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure shall thereafter be a legally non-conforming structure.

**B. Restoration:**

1. Any legal, non-conforming building or structure which has been damaged by fire, explosion, act of God or the public enemy, to the extent of more



than fifty percent (50%) of its fair market value, as determined by the Building Official, shall not be restored, except in conformity with the regulations of this Ordinance, and as specifically provided in Section 10-15-4.B.2 below.

2. Except as otherwise provided by this Ordinance or State Statutes, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
    - a. The nonconformity or occupancy is discontinued for a period of more than one year.
    - b. The nonconforming use or building is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no building permit has been applied for within one hundred eight (180) days of when the property is damaged.
  3. Any subsequent use, building or structure not meeting the standards established in Sections 10-15-4.B.1 and 10-15-4.B.2 of this Ordinance shall be only occupied in a conforming manner.
- C. **Alterations:** Alteration and normal maintenance to a legal non-conforming building or structure may be made through the building permit process provided:
1. The alterations do not expand the foundation and/or building volume, unless specifically allowed by this Ordinance.
  2. The alterations do not increase the building occupancy capacity or parking demand.
  3. The alteration does not increase the non-conformity of the building or the use.
- D. **Expansion of Non-Conforming Single Family Homes:** Non-conforming single family homes may be expanded in a manner compliant with all standards of this ordinance.

**10-15-5: NON-CONFORMING LOTS:**

- A. **Vacant Lots:** Except in environmental protection districts, legal, non-conforming, vacant lots of record may be developed for single family detached dwellings upon approval of an administrative permit, provided that:
1. The lot in question was legally established in accordance with city code requirements existing at the time of its creation and is a separate, distinct tax parcel.
  2. The lot is properly zoned for single-family residential land uses.
  3. The lot area and/or width meet minimum requirements or are within seventy (70) percent of the requirement of the applicable zoning district.
  4. The lot in question has frontage on and will directly access an improved public street.
  5. The setback and yard requirements of the base zoning district can be achieved while simultaneously resulting in development which complies with the character and general design of the immediate area and the objectives of the City's Comprehensive Plan and this Ordinance.
- B. **Developed Lots:** An existing conforming use on a lot of substandard size and/or width may be expanded or enlarged if such expansion or enlargement meets all other provisions of this Ordinance.

## CHAPTER 16

### GENERAL PERFORMANCE STANDARDS

#### SECTION:

- 10-16-1: Purpose
- 10-16-2: Dwelling Unit Restriction
- 10-16-3: Platted and Unplatted Property
- 10-16-4: Erosion and Drainage
- 10-16-5: Wetlands
- 10-16-6: Use of Dynamite/Explosives
- 10-16-7: Traffic Sight Visibility Triangle
- 10-16-8: Exterior Lighting
- 10-16-9: Smoke
- 10-16-10: Dust and Other Particulate Matter
- 10-16-11: Air Pollution
- 10-16-12: Noise
- 10-16-13: Bulk Storage (Liquid)
- 10-16-14: Waste, Refuse, and Recyclable Material
- 10-16-15: Outdoor Storage
- 10-16-16: Impervious Surfaces
- 10-16-17: Outdoor Wood-Burning Furnaces

**10-16-1: PURPOSE:** The purpose of this chapter is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.

#### **10-16-2: DWELLING UNIT RESTRICTION:**

- A. Except as may be expressly allowed by this Ordinance, no garage, tent, accessory building or motor home shall at any time be used as living quarters, temporarily or permanently. Tents, playhouses or similar structures may be used for play or recreational purposes on a temporary basis or occasionally.
- B. Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling, only in conformance with the State Building Code.
- C. No lot shall contain any building used as a dwelling unit unless it abuts on an improved and City accepted public street. The street shall be of a width and construction suitable to traffic requirements of the neighborhood and in compliance with City standards.

#### **10-16-3: PLATTED AND UNPLATTED PROPERTY:**

- A. Any person desiring to improve property shall submit to the Building Official a survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information which may be necessary to ensure conformance to City ordinances.
- B. All structures shall be placed so that they will not obstruct future public streets which may be constructed in conformity with existing streets and according to the system and standards employed by the City.
- C. Except in the case of a PUD District established by Chapter 75 of this Ordinance or as specifically allowed and stated in a respective zoning district, not more than one (1) principal building shall be located on a lot. The words "principal building" shall be given their common, ordinary meaning as defined in Chapter 2 of this Ordinance. In case of doubt or on any questions or interpretation the decision of the Zoning Administrator shall be final, subject to the right to appeal to the Board of Adjustment and Appeals.
- D. On a through lot, both street lines shall be front lot lines for applying the yard setback regulations of this Ordinance except in the case of a buffer yard fence or accessory building. In addition, no home on a through lot or corner lot in any residential zone shall be allowed direct access to any major collector or arterial street designated as such by the City's Transportation Plan, except as may be permitted by the City Engineer.
- E. In the case of properties which abut street easements, applicable setbacks shall be measured from the easement line and shall be related to roadway classification as identified in the St. Francis Transportation Plan and Subdivision Ordinance.
- F. Outlots are deemed unbuildable and no building permit shall be issued for such properties, except in the case of public park facilities and essential services.
- G. Each lot shall have frontage and access directly onto an abutting, improved and City accepted public street.

#### **10-16-4: EROSION AND DRAINAGE:**

- A. **Minnesota Pollution Control Agency (MPCA) Requirements:** Every applicant for a building permit, subdivision approval, or a grading permit to allow land disturbing activities shall adhere to erosion control measure standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas", as may be amended, or as approved by the City Engineer and

applicable City's stormwater management requirements as stated in Chapter 93 of this Ordinance.

- B. **Prohibited Development:** No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of sediment on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area, or other public facilities subject to the review and approval of the City Engineer.
- C. **Stormwater Management:** All residential, commercial, industrial, and institutional developments shall satisfy the provisions of the Subdivision Ordinance in regard to stormwater management and the City's Stormwater Management Plan.
- D. **City Engineer Approval:** In the case of all single-family lots, multiple-family lots, business, industrial and institutional developments, the drainage and erosion control plans shall be subject to the City Engineer's written approval. No modification in grade and drainage flow through fill, cuts, erection of retaining walls or other such actions shall be permitted until such plans have been reviewed and received written approval from the City Engineer.
- E. **Approval Of Erosion Control Measures:** Proposed erosion control measures may be approved by the City Engineer as part of grading plan review. Erosion control may be specified by the City Engineer as part of a site survey for individual building permits. Erosion control measures may also be specified by the City Engineer as needed and deemed appropriate during the construction and post-construction periods separate from the above.
- F. **Storm Sewer Inlets:** All storm sewer inlets which are functioning during construction shall be protected so that sediment laden water does not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
- G. **Stormwater Channels:** All on-site stormwater conveyance channels shall be designed and constructed to withstand the design volume of stormwater with appropriate stabilization to prevent scour and erosion. Erosion controls shall be provided at the outlets of all storm sewer pipes.
- H. **Sediment Control Practices:** All temporary and permanent erosion and sediment control practices shall be maintained and repaired whenever necessary to assure the continued performance of their intended function.
- I. **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.

- J. **Seeding:** All disturbed ground left inactive for seven (7) or more days shall be stabilized by seeding or sodding or by mulching or covering or other equivalent control measure.
- K. **Sites One Acre and More:** For sites with more than one (1) acre or more 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 (1) percent of the area draining to the basin and at least three (3) feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three (3) feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
- L. **Sites Under One Acre:** For sites with less than one (1) acre disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all side slope and down slope 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.
- M. **Removal:** All temporary erosion control devices including silt fence, gravel, hay bales or other measures shall be removed from the construction site and properly disposed of or recycled. This removal and disposal shall occur within thirty (30) days of the establishment of permanent vegetative cover on the disturbed area.
- N. **Site Dewatering:** Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels of a wetland. All dewatering shall be in accordance with all applicable County, State, and Federal rules and regulations.
- O. **Waste And Material Disposal:** All waste and unused building materials (including garbage, debris, cleaning wastes, waste water, 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.
- P. **Foundation, Garage Floor:** Unless approved by the City Engineer, the top of the foundation and garage floor of all structures shall be at least eighteen (18) inches above the grade of the crown of the street. Elevations shall be in accordance with the approved grading plan for the development.

- Q. **Stop Work Order:** The City's Building Official or City Engineer may issue stop work orders for any violation of this Ordinance.

**10-16-5: WETLANDS:**

- A. **Delineation Report:** Every applicant for a grading permit to allow wetland disturbing activities shall submit a wetland delineation report to the City Engineer. No grading permit to allow wetland disturbing activities shall be issued until approval of the wetland replacement plan application or a certificate of exemption has been obtained in strict conformance with the provisions of this Ordinance and the Minnesota Wetland Conservation Act. This Ordinance applies to all land, public or private, located within the City.
- B. **Impacts:** Utilization and development impacts to wetlands shall be consistent with the stormwater management policies of the City.
- C. **Impacts To Wetland:**
1. Stormwater discharge into wetlands shall be consistent with Chapter 91 of this Ordinance.
  2. A building setback of thirty (30) feet shall exist from the delineated edge of all wetlands at the time of development within areas developed or redeveloped after the effective date of this Ordinance, unless otherwise stated within the Zoning District. A protective buffer strip of natural vegetation shall be maintained around wetlands subject to Section 10-91-4 of this Ordinance.
  3. Wetlands shall not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value in accordance with the Minnesota Wetland Conservation Act. Replacement shall 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 implementation.
    - 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.

- e. Compensating for the impact by replacing or providing approved substitute wetland resources or environments.

**10-16-6: USE OF DYNAMITE/EXPLOSIVES:** The use of dynamite and/or other high powered explosives shall be permitted only in the I-3, Isolated Industrial District and only subject to all State and Federal regulations pertaining thereto.

**10-16-7: TRAFFIC SIGHT VISIBILITY TRIANGLE:** Except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into a yard or right-of-way area so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street or driveway. Visibility from any street or driveway shall be unobstructed above a height of three (3) feet, measured from where both street or driveway center lines intersect within the triangle described as beginning at the intersection of the projected curb line of two (2) intersecting streets or drives, thence forty-five (45) along one curb line, thence diagonally to a point forty-five (45) feet from the point of beginning along the other curb line. The exception to this requirement shall be where there is a tree, planting or landscape arrangement within such area that will not create a total obstruction wider than three (3) feet. These requirements shall not apply to conditions of this Ordinance that legally exist prior to the effective date of this Ordinance, unless the City Council determines that such conditions constitute a safety hazard.

**10-16-8: EXTERIOR LIGHTING:**

- A. **Purpose:** It is the purpose of this section to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing night-time safety, utility, security and productivity.
- B. **Exemptions:** The provisions of this section shall not apply to the following:
  - 1. Temporary outdoor lighting used during customary holiday seasons.
  - 2. Temporary outdoor lighting used for civic celebrations and promotions.
  - 3. Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.
  - 4. Emergency lighting by police, fire, and rescue authorities.
  - 5. Architectural/historical light fixtures and street lights that feature globes that are not shielded. In no case shall the light affect adjacent property in



excess of the maximum intensity defined in Section 10-16-8.C.1 of this Ordinance.

6. All outdoor lighting fixtures existing and legally installed prior to the effective date of this Ordinance are exempt from regulations of this Section but shall comply with the following standards:
  - a. Glare. Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from flood lights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the center line of said street. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (0.4) foot candles (meter reading) as measured from said property.
  - b. Replacement. Whenever a light fixture that was existing on the effective date of this Ordinance is replaced by a new outdoor light fixture, the provisions of this Section shall be complied with.

**C. Performance Standards.**

1. Intensity. No light source or combination thereof which cast light on a public street shall exceed one (1) foot candle meter reading as measured from the center line of said street nor shall any light source or combination thereof which cast light on adjacent property exceed four-tenths (0.4) foot candles as measured at the property line. The foot candle level of a light source shall be taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.
2. Residential District Standards. In all residential districts, any lighting used to illuminate an off-street parking area, structure, or area shall be arranged as to deflect light away from any adjoining residential property or from any public right-of-way in accordance with the following provisions:
  - a. The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity defined in Section 10-16-8.C.1 of this Ordinance.

- b. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way, unless part of a permanent fixture.
- 3. Commercial, Industrial, and Institutional District Standards. Any lighting used to illuminate an off-street parking area, structure, or area shall be arranged so as to deflect light away from any adjoining property or from any public right-of-way in accordance with the following provisions:
  - a. The light fixture shall contain a cutoff which directs the light at an angle of ninety (90) degrees or less. Exposure of the light source shall not be permitted in view of adjacent property or public right-of-way.
  - b. Lighting of entire facades or architectural features of a building shall be approved by the City Council. Building facades or architectural features may not be internally illuminated and shall only utilize illuminating devices mounted on top and facing downward onto the structure. In no case shall the light affect adjacent property in excess of the maximum intensity defined in Section 10-16-8.C.1 of this Ordinance.
  - c. Light sources shall not be permitted so as to light adjacent property in excess of the maximum intensity defined in Section 10-16-8.C.1 of this Ordinance.
- 4. Height. The maximum height above the ground grade permitted for poles, fixtures, and light sources mounted on a pole is twenty-five (25) feet. A light source mounted on a building shall not exceed the height of the building. Exceptions to the height limits for light sources may be approved by conditional use permit provided that all other requirements of this Section are satisfied.
- 5. Location.
  - a. All non-public outdoor light fixtures shall be set back a minimum of ten (10) feet from a street right-of-way and five (5) feet from an interior side or rear lot line.
  - b. No light sources shall be located on the roof unless said light enhances the architectural features of the building and is approved by the City Council.

6. Hours.
  - a. The use of outdoor lighting for parking lots serving commercial, industrial, and institutional uses shall be turned off one (1) hour after closing, except for approved security lighting.
  - b. All illuminated business identification signs shall be turned off between 11:00 PM and sunrise, except that said signs may be illuminated while the business facility on the premise is open for service.
7. Glare. Direct or reflected glare from high temperature processes such as combustion or welding shall not be visible from any adjoining property.
8. Outdoor Recreation. Outdoor recreational uses such as, but not limited to, baseball fields, football fields, and tennis courts have special requirements for night-time lighting. Due to these unique circumstances, a conditional use permit shall be required for outdoor lighting systems for such uses that do not comply with regulations of this Section, provided that:
  - a. No public or private outdoor recreation facility shall be illuminated after 11:00 PM, except for required security lighting.
  - b. Off-street parking areas for outdoor recreation uses that are illuminated shall meet the requirements for commercial, industrial, and institutional applications as found in Section 10-16-8.C.4 of this Ordinance.
  - c. The provisions of Chapter 6 of this Ordinance are considered and satisfactorily met.

**10-16-9: SMOKE:** The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7017, as may be amended.

**10-16-10: DUST AND OTHER PARTICULATE MATTER:** The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7011, as may be amended.

**10-16-11: AIR POLLUTION:** The emission of air pollution, including potentially hazardous emissions, by any use shall be in compliance with and regulated by Minnesota Statutes 116, as may be amended.

**10-16-12: NOISE:** Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NCP 7010, as may be amended. In no case shall noise emanations constitute a nuisance as defined and regulated by this Code.

**10-16-13: BULK STORAGE (LIQUID):** All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with County, State, and Federal agency requirements, and have documents from those respective agencies stating the use is in compliance.

**10-16-14: WASTE, REFUSE AND RECYCLABLE MATERIAL:**

- A. **Waste Disposal:** All waste generated shall be disposed in a manner consistent with all Minnesota Pollution Control Agency rules.
- B. **Waste Not Stored in Containers:** Any accumulation of waste generated on any premises not stored in containers which comply with applicable requirements of this Ordinance and Minnesota Pollution Control Agency rules, or any accumulation of mixed Municipal solid waste generated on any premises which has remained thereon for more than one (1) week, or any accumulation of infectious, nuclear, pathological, or hazardous waste which is not stored and disposed in a manner consistent with Minnesota Pollution Control Agency rules is a nuisance and shall be abated and the cost of abatement may be assessed against the property where the nuisance is found.
- C. **Off-Site Waste:** The accumulation, storage, processing, and disposal of waste on any premises, which is not generated on that premises, is prohibited, except as specifically provided in this Ordinance.
- D. **Abandoned, Unlicensed, or Inoperable Vehicles:** Passenger automobiles and trucks not currently licensed by the State, or which are because of mechanical deficiency incapable of movement under their own power, parked or stored outside for a period in exceed of thirty (30) days, and all materials stored outside in violation of City Code provisions are considered refuse or junk and shall be regulated in the manner provided for by the Chapter 8 of the City Code.
- E. **Location and Screening:**
  - 1. Single Family Dwellings, Duplexes, and all Other Residential Structures With Four (4) or Less Residential Units: Garbage cans and recycling bins shall be kept in rear or side yards and shall be screened from neighboring properties and the public right-of-way or shall be kept indoors.

2. Other Uses: All refuse, recyclable materials, and necessary handling equipment including but not limited to garbage cans, recycling bins, and dumpsters shall be stored within the principal structure, within an accessory building, or totally screened from eye-level view from all neighboring uses and the public right-of-way. Trash and/or recycling enclosures shall comply with the following:
  - a. Exterior wall or fence treatment shall be similar and/or complement the principal building.
  - b. The enclosed trash and/or recycling receptacle area shall be located in the rear or side yard and shall observe all applicable setback requirements and easements.
  - c. The trash and/or recycling enclosure shall be in an accessible location for pick up hauling vehicles.
  - d. The trash and/or recycling receptacles shall be fully screened from view of adjacent properties and the public right-of-way by a fence or wall of at least six (6) feet in height and a minimum opaqueness of eighty (80) percent.
  - e. All dumpsters, recycling bins, handling equipment, and enclosures shall be kept in a good state of repair with tight-fitting lids to prevent spilling and spread of debris. The construction of trash and recycling enclosures shall be per standards established by the City Building Official and all design and construction of such enclosures shall be subject to the Building Official's approval.

#### **10-16-15: OUTDOOR STORAGE:**

- A. **District Requirements:** Except as herein provided or as specifically allowed within the specific zoning districts established by this Ordinance, all materials and equipment shall be stored within a building.
- B. **Exceptions:**
  1. Clothes line pole and wires.
  2. Play equipment.
  3. Recreational vehicles and equipment may be parked or stored outdoors as regulated by Section 10-16-15.D of this Ordinance.

4. Construction and landscaping material currently being used on the premises.
5. Off-street parking of operable motor vehicles as specified in the respective zoning districts.

**C. Vehicle/Equipment Sales:**

1. Residential Districts:
  - a. Personal vehicles, recreational vehicles, farm machinery, and equipment and similar merchandise offered for sale in residential zoning districts shall comply with the following:
    - (1) The merchandise sold in residential areas shall be the personal property of the occupant.
    - (2) Sales of personal merchandise herein addressed shall be limited to no more than three (3) items per calendar year.
    - (3) Merchandise items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.
    - (4) For sale signs on or in such merchandise shall be limited to four (4) square feet in area and three (3) feet in height.
  - b. Garage or rummage sales conducted in residential zones shall comply with the following:
    - (1) Sales shall be limited to a maximum of four (4) consecutive days and occurring no more than two (2) times within one calendar year per property.
    - (2) Signs shall be governed by Chapter 23 of this Ordinance.
2. Non-Residential Districts: Motor, commercial and recreational vehicles shall not be displayed “for sale” or sold within non-residential districts unless as part of an approved licensed sales dealership or for short-term parking (twelve [12] hours or less) if the vehicle is owned by an employee of said business where the vehicle is parked with the consent of the business owner.

**D. Recreational Camping Vehicle, Utility Trailer, Boat, Unlicensed Vehicle, and Parking:**

1. Definition. The term “Recreational Camping Vehicle, Utility Trailer, Boat and Unlicensed Vehicle (Operable)” means any of the following:
  - a. “Travel Trailer” – A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified “Travel Trailer” by the manufacturer of the trailer.
  - b. “Pickup Coach” – A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
  - c. “Motor Home” – A portable, temporary building to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
  - d. “Camping Trailer” – A folding structure, mounted on wheels and designed for travel, recreation and vacation uses.
  - e. “Utility Trailer” – A trailer used for the transporting of items typically associated with a residential use. Utility Trailers shall not include trailers used to transport equipment used for commercial use.
  - f. “Boat” – For the purpose of this definition, “boat” shall include a water craft of less than twenty-two (22) feet in length, that is intended for personal use by the resident.
  - g. “Unlicensed Vehicle (Operable)” – Any passenger vehicle which does not have a current registration, but is capable of legally being operated on a public street. A vehicle having a flat tire or tires, missing wheel or wheels, lack of an engine or critical component parts thereof preventing immediate ignition of the engine, broken or cracked windshield, broken or non-functioning headlights, or other characteristics of a vehicle not capable of being immediately legally driven on a public road shall be presumed to be inoperable.
2. It is unlawful for any person to park or store a recreational camping vehicle, utility trailer, boat or unlicensed vehicle (operable) in the required setback area of any property.
3. Properties which are less than seven (7) acres in size and are zoned for or used for residential purposes, located within the Urban Service Area of the City, shall be limited to a maximum of three Recreational Camping

Vehicles, Utility Trailers, Boats or Unlicensed Vehicles (operable), or a combination thereof, stored outside of an accessory structure or attached garage; provided a property shall be limited to a number of one Unlicensed Vehicle (operable) and all such vehicles must be parked on an Approved Parking Surface. For purposes of this Section, an "Approved Parking Surface" shall mean a parking surface paved with a bituminous or concrete surfacing not less than two inches in depth, or covered with a Class V aggregate, landscaping rock (with landscaping fabric installed under the rock) or concrete paver blocks all of which are maintained adequately to prevent the growth of vegetation. The total outside storage area for the permitted vehicles shall be limited to a maximum of five hundred (500) square feet in size.

- E. **Truck Parking:** It is unlawful to park a truck (other than a truck of twelve thousand (12,000) gross vehicle rated weight or less), a truck tractor, semi-trailer, bus, construction equipment, construction trailers, or manufactured home within the Urban Service areas of the City that are zoned and/or used for residential purposes, except for the purpose of loading or unloading the same, and then only during such time as is reasonably necessary for such activity. For purposes of this section "construction equipment" and/or "construction trailers" shall mean only such equipment and trailers as is decaled per Minnesota Department of Transportation requirements and actively used in connection with the operation of a construction-related business.
- F. **Parking in Residential Districts:** It is unlawful to park a vehicle in the front yard of any property in the RR, ML-PUD, R1, R2, R3, and R4 Districts except on an approved parking surface adjacent to a driveway. The parking surface shall be constructed of bituminous, concrete, or pavers. Such parking pads shall be considered an expansion of a driveway and require the issuance of a driveway permit pursuant to Section 10-19-4-B-14. Properties in the RR and ML-PUD Districts may receive a waiver from the surfacing requirements as stated in Section 10-19-4-B-21. (Ord. 190, Effective 1/18/14)

#### **10-16-16: IMPERVIOUS SURFACES**

- A. For the purposes of calculating impervious surface area, the following are exempted:
  - 1. Wood or similar decks with one-fourth (1/4) inch spacing between boards, provided there is a pervious surface underneath.
  - 2. Sidewalks four (4) feet or less in width.
  - 3. Landscaping areas with pervious surfaces such as woodchips or rocks on the surface provided there are no impervious materials such as plastic underneath the ground cover material.



4. Landscape edging one (1) foot wide or less.
  5. Fences, walls, or retaining walls two (2) feet wide or less.
- B. Properly installed paver stones with a sand base to allow for drainage and other porous pavements may be counted as fifty (50) percent pervious, if approved by the City Engineer and installed to the requisite installation standards.
- C. Property owners may apply for a formal Engineering Review to determine a percentage other than identified in Section 10-16-16.B of this Ordinance for porous pavements. The City Engineer will review the proposed pavement and determine the impervious surface percentage.

**10-16-17: OUTDOOR WOOD-BURNING FURNACES.** (Ord. 195, Adopted 7/21/14, Effective 8/24/14)

- A. Outdoor wood-burning furnaces are prohibited in the Urban Services Area of the City.
- B. All outdoor wood-burning furnaces require a permit from the City of St. Francis prior to installation.
- C. Outdoor wood-burning furnaces shall be required to use clean wood or other clean burning product as fuel. Clean wood is defined as natural wood which has not been painted, varnished, or coated with a similar material, has not been pressure-treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products. The use of the following materials as fuel is strictly prohibited:
1. Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris, or other household or business wastes.
  2. Kerosene, gasoline, or petroleum products.
  3. Asphalt and products containing asphalt.
  4. Wood or wood products, other than clean wood.
  5. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic film, and plastic containers.

6. Rubber, including tires and synthetic rubber-like products.
7. Newspaper, corrugated cardboard, container board, and office paper.

## CHAPTER 17

### GENERAL YARD, LOT AREA, AND BUILDING REGULATIONS

#### SECTION:

- 10-17-1: Purpose
- 10-17-2: High Water Elevation
- 10-17-3: Building Height
- 10-17-4: Building Type and Construction
- 10-17-5: Yards
- 10-17-6: Minimum Floor Area Per Dwelling Unit
- 10-17-7: Efficiency Apartments
- 10-17-8: Minimum Floor Area, Commercial and Industrial Structures
- 10-17-9: Single Family Dwellings
- 10-17-10: Building Relocation
- 10-17-11: Reserved
- 10-17-12: Model Homes
- 10-17-13: Temporary/Seasonal Outdoor Sales

**10-17-1: PURPOSE:** This Chapter identifies yard, lot area, building size, building type, and height requirements in each zoning district.

**10-17-2: HIGH-WATER ELEVATION:** No structure, except piers, docks, and retaining walls shall be placed at an elevation such that the lowest floor, including basement floor, is less than three (3) feet above the highest known water level, or less than one (1) foot above the 100-year regulatory flood protection elevation, if determined, of any adjacent lake, pond, river, watercourse, or wetland. If sufficient data on known high-water levels is not available, the elevation of the line of permanent aquatic vegetation shall be used as the estimated high-water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize, and construction shall not begin until the property has been inspected by the Building Official. If requested by the Building Official, the ground water table elevation shall be determined by a licensed soils engineer using soil borings, piezometers, or the observation of mottled soils.

#### **10-17-3: BUILDING HEIGHT:**

- A. No structure shall exceed the maximum height requirement of the applicable zoning district provisions.
- B. The building height limits established herein for districts shall not apply to the following:

1. Agricultural buildings on farm properties.
2. Antenna support structures as regulated by Chapter 22 of this Ordinance.
3. Belfries.
4. Chimneys or flues.
5. Church spires.
6. Cooling towers.
7. Cupolas and domes which do not contain usable space.
8. Elevator penthouses.
9. Flagpoles.
10. Monuments.
11. Necessary mechanical and electrical appurtenances.
12. Parapet walls extending not more than three (3) feet above the limiting height of the building.
13. Poles, towers and other structures for essential services.
14. Wind energy conversion system towers as regulated by Chapter 28 of this Ordinance.
15. Grain elevators.

**10-17-4: BUILDING TYPE AND CONSTRUCTION:**

**A. General Provisions:**

1. Steel or Aluminum Buildings: Except in association with farming activities, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish shall be permitted in any zoning district.
2. Architectural and Aesthetic Compatibility: Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the community's public health, safety and general welfare.

3. Exterior Building Finishes:

- a. Residential Uses. The primary exterior building facade finishes for residential uses shall consist of materials comparable in grade to the following:
  - (1) Brick.
  - (2) Concrete composite board.
  - (3) Stone (natural or artificial).
  - (4) Integral colored split face (rock face) concrete block.
  - (5) Wood, natural or composite, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood or cypress.
  - (6) Stucco (natural or artificial)/EIFS (exterior insulated finish system).
  - (7) Vinyl
  - (8) Aluminum or steel siding provided it has horizontal edges and overlapping sections no wider than twelve (12) inches.
- b. Commercial, Industrial, and Institutional Uses in Residential Districts. The exterior building facade finishes for commercial, industrial, and institutional uses in residential districts shall consist of materials comparable in grade to the following:
  - (1) Brick.
  - (2) Concrete composite board.
  - (3) Stone (natural or artificial).
  - (4) Cast in place concrete or precast concrete panels.
  - (5) Integral colored split face (rock face) concrete block.
  - (6) Wood, natural or composite, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood or cypress.

- (7) Glass curtain wall panels.
  - (8) Stucco (natural or artificial)/EIFS (exterior insulated finish system).
  - (9) Steel or aluminum siding.
- c. Building Foundations. Building foundations not exceeding two (2) feet and other such portions of a building's facade need not comply with the requirements for the primary facade treatment or materials.

**B. Finishes for Structures in Commercial/Industrial Districts.**

1. Within the B-1, Central Business District, one hundred (100) percent of the exterior building finish shall consist of materials comparable in grade and quality to the following: Face brick, natural stone, glass, stucco, specially designed pre-cast concrete units if the surfaces have been integrally treated with an applied decorative material textured concrete block, or smooth concrete block if scored at least twice, wood, or horizontal lap siding (wood, masonite, steel, aluminum or vinyl). Baked enamel sheet metal siding shall not be a permitted building material.
2. Within the B-2, General Commercial District, one hundred (100) percent of the exterior building finish for the front wall shall consist of materials comparable in grade and quality to the following: face brick, natural stone, glass, stucco, specially pre-cast concrete units if the surfaces have been integrally treated with an applied decorative material, textured concrete block or smooth concrete block if scored at least twice. The balance of the building finish may consist of the following wood, horizontal lap siding (wood, masonite, steel, aluminum or vinyl), or other approved architectural metal siding. Baked enamel sheet siding shall not be a permitted building material.
3. Within the B-3, Business Park District, one hundred (100) percent of the exterior building finish for the front wall or a total of twenty-five (25) percent of all exterior walls shall consists of materials comparable in grade and quality to the following: Face Brick, Natural Stone, Glass, Stucco, Specially designed pre-cast concrete units if the surfaces have been integrally treated with an applied decorative material, textured concrete block, or smooth concrete block if scored at least twice. The balance of the building finish may consist of the following: wood, horizontal lap siding (wood, masonite, steel, aluminum, or vinyl), or other approved architectural metal siding. Baked enamel sheet metal siding shall be a permitted building material but shall not count towards the twenty-five (25) percent requirement.

4. Within the I-1, Light Industrial District and I-2, General Industrial District, twenty-five (25) percent of the exterior building finish for the front wall shall consists of material comparable in grade and quality to the to the following: face brick, natural stone, glass, stucco, Specially designed pre-cast concrete units if the surfaces have been integrally treated with an applied decorative material, textured concrete block, or smooth concrete block if scored at least twice. The balance of the building finish may consist of the following: wood, horizontal lap siding (wood, masonite, steel, aluminum, or vinyl), or other approved architectural metal siding. Baked enamel sheet metal siding shall be a permitted building material but shall not count towards the twenty-five (25) requirement.
5. Within the Isolated Industrial District, there shall be no limitations on exterior building finishes.

**C. Commercial, Industrial, Institutional, and Multi-Family Roofs.** (Ord 161, SS, 8-10-11)

1. All exposed roof materials shall be similar to or an architectural equivalent of commercial grade asphalt or fiberglass shingles, wood shingles, tile shingles, finished metal standing seam, or better.
2. Pitched roofs shall be constructed with at least a one (1) foot over hang around the perimeter of the structure.
3. Roofing materials and standards for two-family dwellings and townhomes shall meet the standards for single family homes as stated in Section 10-17-8-C of this Ordinance.
4. Cloth, canvas, plastic sheets, tarps, and similar materials are not allowed as roofing materials except for greenhouses, agricultural uses, and public uses for the purposes of protecting outdoor storage materials necessary for public safety, such as salt and sand.

**10-17-5: YARDS:** Except as provided below, no lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Ordinance. If the existing yard or other open space is less than the minimum required, it shall not be further reduced. No required open space provided around any building or structure shall be included as part of any open space required for another structure.

- A. Exceptions:** The following shall not be considered as encroachments on yard setback requirements:

1. Cantilevers up to ten (10) feet in width, chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two (2) feet into a yard.
  2. Terraces, steps, decks, uncovered porches, stoops or similar structures limited to not more than a height of three (3) feet above grade may extend to within five (5) feet of side yard and ten (10) feet of rear yard lot lines, but not more than five (5) feet into a required front yard or side yard adjacent to a public right of way.
  3. Recreational and laundry drying equipment, arbors and trellises, gazebos, and air-conditioning or heating equipment shall be allowed only in a rear or side yard, provided they are at a distance of five (5) feet from any lot line.
  4. In residential districts, a one (1) story entrance for a detached single-family or two-family dwelling may extend into the front yard setback not more than five (5) feet, and shall not exceed fifty (50) square feet in size.
  5. No encroachment shall be permitted in existing or required drainage and utility easements.
- B. **Front Yard Setback Exceptions:** In the case of lots platted prior to the effective date of this Ordinance, the principal building setback requirements for front and side yards adjacent to a public right of way, as established by the respective zoning districts, may be reduced to a distance equaling the average setback of principal buildings on adjacent lots. In no case shall this distance be less than half of the required setback.
- C. **Triangular Lots:** In the case of triangular lots, where the rear lot line is a single vertex, the rear yard setback points of reference shall be determined by measuring the length of the setback distance from the vertex along the side lot lines. The rear setback line shall be determined by traversing the lot and connecting these points of reference.

#### **10-17-6: MINIMUM FLOOR AREA PER DWELLING UNIT:**

- A. **Single-Family Dwelling Units:** Except as otherwise specified in the zoning district provisions single-family homes as classified below shall have the following minimum ground coverage per unit (excluding garage):

Split Entry	960 square feet
One Story with walkout	960 square feet
One Story with full basement	1,000 square feet
One Story on crawl space or slab	1,150 square feet
Two Story with basement – First Floor	770 square feet
Two Story with basement – Second Floor	580 square feet



- B. **Multiple Dwelling Units:** Except as otherwise specified in zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, living units classified as multiple dwelling (excepting elderly housing) shall have the following minimum floor areas per unit:

Efficiency units	500 square feet
1 bedroom units	700 square feet
2 bedroom units	800 square feet
More than 2 bedroom units	An additional 80 square feet for each additional bedroom

- C. **Elderly (Senior Citizen) Housing:** Except as otherwise specified in the zoning district provisions living units restricted by permanent covenant as elderly (senior citizen) housing units shall have the following minimum floor areas per unit:

Efficiency units	440 square feet
1 bedroom	520 square feet
More than 1 bedroom units	An additional 80 square feet for each additional bedroom

- D. **Two-Family Dwelling Units, Manor Homes, Quadraminiums And Townhouses:** Except as otherwise specified in the zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, two-family, quadraminiums, manor homes, and townhouses, as classified below, shall have the minimum floor area per unit:

Two-Family	650 square feet first floor above grade, plus 100 additional square feet for each bedroom
Quadraminiums, manor homes and townhouses	600 square feet first floor above grade, plus 100 additional square feet for each bedroom

**10-17-7: EFFICIENCY APARTMENTS:** Except for elderly (senior citizen) housing, the number of efficiency apartments in multiple-family dwellings shall not exceed one unit or ten (10) percent of the total number of dwelling units in the building, whichever is greater. In the case of elderly (senior citizen) housing, efficiency apartments shall not exceed thirty (30) percent of the total number of apartments.

**10-17-8: MINIMUM FLOOR AREA, COMMERCIAL AND INDUSTRIAL STRUCTURES:** Commercial and industrial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit.

**10-17-9: SINGLE FAMILY DWELLINGS:** All single-family detached homes, except as part of approved manufactured home parks, shall conform to the following requirements:

- A. **Perimeter Foundation:** Be constructed upon a continuous perimeter foundation that meets the requirements of the State Building Code.
- B. **Dimensional Requirements:** No residential structure shall have a width of less than twenty-two (22) feet on not less than seventy (70) percent of the structure. Width measurements shall not be inclusive of overhangs or other projections beyond the principal exterior walls.
- C. **Roof:** Have an earth covered, composition, metal, shingled or tiled roof. All single family dwellings other than approved earth sheltered homes shall have at least three/twelve (3/12) roof pitch with a one (1) foot overhang.
- D. **Building Permit:**
  - 1. The application for a building permit, in addition to other information required, shall indicate the height, size, design and the appearance of all elevations of the proposed building and a description of the construction materials proposed to be used, and the delineation of future deck, porch and/or garage additions whether or not such construction is intended.
  - 2. The exterior architectural design of a proposed dwelling may not be so at variance with, nor so similar to, the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor so at variance with the character of the surrounding neighborhood as to adversely affect the public health, safety or general welfare.
  - 3. The requirements of the State Building Code or the applicable manufactured housing code shall be met.

**10-17-10: BUILDING RELOCATION:**

- A. The relocation of any building or structure on a lot or onto another lot within the City shall require an administrative permit subject to the following conditions:

1. Upon relocation, the building shall comply with the applicable requirements of this Ordinance, the City Code, and the Uniform Building Code.
  2. The relocated structure shall be ready for occupancy within six (6) months from the date of location on the site.
  3. A performance security shall be provided in an amount determined by the Building Official to ensure timely completion of the project and to protect against damage to public facilities during the building relocation.
- B. The following are exempt from the provisions of this Section:
1. Relocations which occur solely within the confines of a single lot or parcel.
  2. Manufactured homes within manufactured home parks.
  3. Prefabricated and industrialized/modular buildings as defined by the State Building Code being relocated to their first permanent building site.
  4. Temporary structures as allowed by Section 10-17-11 of this Ordinance.

**10-17-11: RESERVED.** (Ord 178, SS, 11-19-12, Effective Date: 12-23-12)

**10-17-12: MODEL HOMES:**

- A. **Purpose:** The purpose of this Section is to provide for the erection of model homes, which may include temporary real estate offices, in new subdivisions without adversely affecting the character of surrounding residential neighborhoods or creating a general nuisance. As model homes represent a unique temporary commercial use, special consideration shall be given to the peculiar problems associated with them and special standards shall be applied to ensure reasonable compatibility with their environment.
- B. **Qualification:** To qualify for a building permit for a model home, which may include a temporary real estate office, the following shall be required:
1. Upon receipt of final plat approval and recording, three (3) building permits for model homes in a subdivision may be granted. No final certificate of occupancy shall be issued until the infrastructure improvements including the first lift of asphalt have been completed and approved by the City.
  2. Upon completion of infrastructure improvements including the first lift of asphalt within the respective final plat subdivision, additional building permits may be issued for model homes and/or temporary real estate offices, provided that the number of model homes and/or temporary real

estate offices shall not exceed ten (10) percent of the number of lots within the final plat.

C. **Procedure:** The erection of a model home(s) within all residential districts, which may include a temporary real estate office(s), shall require an administrative permit, as may be issued by the Zoning Administrator.

D. **Special Requirements:**

1. Model homes and model homes with temporary real estate offices shall be allowed in all residential zoning districts in which they are located and shall be utilized solely for selling purposes of lots and/or homes within the subdivision in which they are located.
2. Temporary parking facilities equal to four (4) paved spaces per model home dwelling unit or a model home with a temporary real estate office shall be provided. The overall design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of the Zoning Administrator or City Engineer.
3. Access from a temporary parking facility shall be directed away from developed and occupied residential neighborhoods to the greatest extent possible.
4. No model home or model home with a temporary real estate office shall incorporate outside lighting which creates a nuisance due to glare or intensity, as provided for in Section 10-16-8 of this Ordinance.
5. All signage shall comply with the sign regulations as contained in Chapter 23 of this Ordinance for the zoning district in which the model home and/or temporary real estate office is located.
6. The administrative permit shall terminate three (3) years from its date of issuance or when eighty-five percent (85%) of the parcels have certificate of occupancies within the development, whichever comes first, unless extended by the City Council.
7. No residential certificate of occupancy shall be issued for a model home or model home with a temporary real estate office until such time as the structure has been fully converted to a residence in compliance with the Uniform Building Code. Additionally, such conversion shall include, but not be limited to, parking lot restoration and the removal of signage and lighting.

8. The restoration of all temporary parking areas with appropriate landscaping shall be completed by the end of the following growing season.
- E. **Restricted Use:** Model homes and model homes with temporary real estate offices shall be used solely for the display and sale of home fixtures and products, and real estate for the subdivision in which they are located unless approved by the Zoning Administrator through an administrative permit.

**10-17-13: TEMPORARY/SEASONAL OUTDOOR SALES:**

- A. **Zoning District Allowance:** Temporary/seasonal outdoor sales shall be limited to agricultural, commercial, and industrial zoning districts.
- B. **Duration:** Temporary/seasonal outdoor sales shall be for a period not to exceed ninety (90) days. No more than two (2) events shall be conducted by the same applicant or property in any calendar year.
- C. **License Required:** No outdoor sales shall be conducted without first obtaining an outdoor sales license as established in Chapter 6 of the City Code.
- D. **Performance Standards:**
  1. Off-street parking and loading shall be provided as required by Chapter 19 of this Ordinance.
  2. The use of a public address system shall not be allowed.
  3. The site upon which the temporary/seasonal outdoor sale is to be conducted shall be kept in a neat and orderly fashion, free from litter, refuse, debris, junk, or other waste which results in offensive odors or unsightly conditions.
  4. Display of items shall be arranged in as compact a manner as reasonably practicable with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
  5. No uses or displays shall be permitted in required parking areas, required green areas, parking setback areas, or any right-of-way or other public property.
  6. Tents, stands, and other similar temporary structures may be utilized subject to the following requirements:

- a. A site plan be submitted which clearly identifies the location of the temporary structure.
  - b. The Zoning Administrator determine that the size and location such structure shall not impair the parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicular traffic on or off the site.
  - c. If the temporary structure is greater than one hundred twenty (120) square feet in size and/or includes electrical service, the City Administrator may defer matter to the City Building Official for review and approval.
- 7. Signage shall be limited to one (1) sign not to exceed thirty-two (32) square feet. The sign may be a banner, shall have a professional appearance, and shall be mounted or erected in an appropriate location. This limitation applies to all signs associated with the sale, including those affixed to vehicles. The sign may be illuminated but shall comply with all requirements of Chapter 23 of this Ordinance.
  - 8. All lighting shall comply with the lighting standards of Section 10-16-8 of this Ordinance.
  - 9. The sale and associated parking shall not obstruct parking spaces needed by any permanent business established on the site except when a sale is held when the business is closed.
  - 10. No portion of the use or event shall take place within one hundred (100) feet of any residential buildings.

## SECTION 18

### ACCESSORY BUILDINGS, STRUCTURES AND USES

#### SECTION:

- 10-18-1: Purpose
- 10-18-2: Time of Construction
- 10-18-3: Application
- 10-18-4: Building Permits
- 10-18-5: Exterior Building Standards
- 10-18-6: Area, Number and Height Limitations
- 10-18-7: Setbacks
- 10-18-8: Animal Enclosures
- 10-18-9: Compost Structures and Firewood Piles
- 10-18-10: Swimming Pools
- 10-18-11: Solar Energy Systems
- 10-18-12: Temporary Family Health Care Dwellings

**10-18-1: PURPOSE:** The purpose of this chapter is to provide performance standards for the erection, siting and use of accessory buildings, structures and uses that may be allowed within the various zoning districts to ensure compatibility with the principal use and with surrounding properties, as well as to protect the general health, safety and welfare of the community.

**10-18-2: TIME OF CONSTRUCTION:** No detached accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory. Agricultural buildings on farm properties are exempt from the requirements of this Ordinance.

**10-18-3: APPLICATION:** Any structure which requires a building permit or which is thirty (30) inches or more in height shall be subject to setback, floor area and other requirements of this Ordinance.

**10-18-4: BUILDING PERMITS:**

- A. Detached accessory buildings not exceeding one hundred twenty (120) square feet in floor area shall be allowed without issuance of a building permit, but shall comply with all other provisions of this Ordinance.
- B. Detached accessory buildings greater than one hundred twenty (120) square feet in floor area shall require a building permit. The Building Official shall review the

site plan and construction drawings to determine compliance with the Building Code and other applicable ordinances, laws, and regulations.

- C. In conjunction with the issuance of a building permit for a detached accessory structure in the Rural Service Area, the property owner shall execute a home occupation awareness form. Said form shall certify that the detached accessory structure and the premises on which it is located, will not be used for the purposes of a Home Occupation without first obtaining the required approvals.
- D. In conjunction with the construction of an agricultural accessory structure, the property owner shall execute an agricultural structure awareness form. Said form shall certify that the accessory structure and the premises shall only be used for agricultural purposes.

**10-18-5: EXTERIOR BUILDING STANDARDS:** Architectural details for accessory buildings are to be the same or similar as for the principal building based upon (but not limited to) the following criteria:

- A. Scale and detailing.
- B. Roof pitch orientation and slope.
- C. Overhang depth and details.
- D. Window and exterior door proportion and types.
- E. Building material. Detached accessory structures in the Rural Service Area may, however, be finished with baked enamel siding.
- F. Exterior color.

**10-18-6: AREA, NUMBER AND HEIGHT LIMITATIONS:** Accessory structures shall comply with the following area, number and height limitations:  
(Ord 76, SS 08-04-03)

**A. Rural Service Area:**

- 1. Attached accessory structures shall not exceed eight hundred forty (840) square feet in size, except that the maximum square footage can be increased to one thousand (1,000) square feet, provided that the accessory structure size does not exceed eighty (80) percent of the foundation footprint of the principal structure.
- 2. Detached accessory structures shall be limited as follows:



LOT SIZEACCESSORY STRUCTURE LIMITS

a. less than 1 acre	Total detached square footage:	600
	Maximum number of detached buildings:	1
	<u>NO POLE BUILDINGS ALLOWED</u>	
	Maximum sidewall height:	10 feet
b. 1 acre but less than 2 ½ acres	Total detached square footage:	1,200
	Maximum number of detached buildings:	1
	POLE BUILDINGS ALLOWED	
	Maximum sidewall height:	12 feet
c. 2 ½ but less than 5 acres	Total detached square footage:	1,500
	Maximum number of detached buildings:	2
	POLE BUILDINGS ALLOWED	
	Maximum sidewall height	14 feet
d. 5 acres but less than 10 acres	Total detached square footage:	4,000
	Maximum number of detached buildings:	2
	POLE BUILDINGS ALLOWED	
	Maximum sidewall height:	16 feet
e. 10 acres and larger	Total detached square footage:	5,000
	Maximum number of detached buildings:	2
	POLE BUILDINGS ALLOWED	
	Maximum sidewall height	18 feet

**B. Urban Service Area: (Ord 181, SS, 4-21-13)**

1. Attached and detached private residential garages shall not exceed eight hundred forty (840) square feet in size, except that the minimum square footage can be increased to one thousand (1,000) square feet, provided that the accessory structure does not exceed eighty (80) percent of the foundation foot print of the principal structure.
2. All new and relocated residential homes shall be constructed with an accessory structure meeting the minimum standards required in Section 10-19-9. For one and two family dwelling units, said accessory structure shall have a minimum floor area of at least four hundred forty (440) square feet.
3. Residential properties within the Urban Service Area may have one detached accessory structure, not to exceed two hundred (200) square feet in size, in addition to private residential garage. This second detached accessory building shall not exceed sixteen (16) feet in height.
4. Residential properties with detached accessory structures that subsequently construct an attached accessory structure, shall deduct the

square footage of the detached structure from the allowable square footage, less two hundred (200) square feet.

5. Unless otherwise permitted, all detached accessory buildings shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less.

#### **10-18-7: SETBACKS:**

A. **Attached Buildings/Garages:** An attached garage shall be considered an integral part of the principal building and shall conform to district setback requirements.

B. **Detached Buildings:**

1. Rural Service Area:

- a. All Lots. No accessory building shall be located within a drainage or utility easement.
- b. Lots Less Than One (1) Acre. Twenty-five (25) feet from the side and rear property lines.
- c. Lots One (1) Acre and Larger. Twenty-five (25) feet from the side and rear property lines.
- d. All detached accessory structures in the Rural Service Area shall be placed no closer to the front property line than the principal structure, except when the principal structure has a front yard setback of at least one hundred fifty (150) feet. The detached accessory structure may be located closer to the front property line than the principal structure, but shall maintain at least a seventy-five (75) foot front yard setback off a City street and a one hundred (100) foot front yard setback off of a County or State road.
- e. Accessory farm buildings shall not be erected within fifty (50) feet of a neighboring property.

2. Urban Service Area: (Ord 181, SS, 4-21-13)

- a. All Lots. No accessory building shall be located in front of the principal structure or within a drainage or utility easement. Accessory buildings must maintain setbacks of five (5) feet from the side property line and ten (10) feet from the rear property line.

- b. Street Side Yard. Detached accessory structures may be located twenty (20) feet from a street side yard on corner lots, provided the structure does not have access to the public right-of-way on the side yard.
- 3. Except in Commercial and Industrial Districts, all detached accessory buildings shall maintain a ten (10) foot setback to the principal structure and other detached accessory buildings on the parcel. (Ord 181, SS, 4-21-13)

**10-18-8: ANIMAL ENCLOSURES:**

- A. Domestic animal enclosures shall not be placed in the front yard or in the side yards abutting a street, shall not be placed closer than ten (10) feet to any property line, and shall not be placed closer than twenty-five (25) feet to any dwelling unit other than on the owner's property.
- B. No encroachment shall be permitted in existing or required drainage and/or utility easements.
- C. Screening and/or a hard surface will be required if problems occur with appearance, noise, odor, and sanitation as determined by the Zoning Administrator.

**10-18-9: COMPOST STRUCTURES AND FIREWOOD PILES:** Compost structures and firewood piles shall be considered accessory uses but not buildings, shall be limited to rear yards, shall be subject to setback and other requirements of this Ordinance, and shall not exceed six (6) feet in height. (Ord 181, SS, 4-21-13)

**10-18-10: SWIMMING POOLS:**

- A. **Applicability:** This Section shall apply to all new swimming pools or spas.
- B. **Construction:**
  - 1. Standards. The construction of swimming pools and spas shall conform to all applicable provisions of the Uniform Building Code, and all other State or Federal regulations concerning such construction.
  - 2. Utility Lines. It is unlawful for any person to build, construct, situate or install any swimming pool or spa beneath any overhead utility line or easement nor over any underground utility line or service or easement.

3. Setback Requirements. It is unlawful for any person to build, construct, situate or install any swimming pool or spa within ten (10) feet of any side or rear lot line, nor within six (6) feet of any principal structure, nor closer to the front lot line than the principal structure except as hereinafter provided:
  - a. On residential parcels which contain a lot area of one (1) acre or more, a swimming pool or spa may be constructed closer to the front lot line than the principal structure, provided that such swimming pool or spa is constructed with in the minimum set back of the District within which it is to be located.
  - b. No swimming pool or spa shall be located within twenty (20) feet of any portion of any on-site sewer system or any private water supply.

**C. Fencing:**

1. Temporary Fencing. During the construction of any swimming pool or spa, the construction area must be secured with a portable fence which is not less than four (4) feet in height.
2. Permanent Fencing. All outdoor swimming pools must be completely enclosed by a permanent fence or wall of a non-climbing type which has no external handholds or footholds, so as to be impenetrable by toddlers. The entire enclosure must be at least four (4) feet in height.
  - a. All outdoor fence or wall openings or outdoor points of entry into the pool area shall be equipped with self-closing and self-latching devices. The opening between the bottom of the fence and the ground or other surface shall be not more than three (3) inches.
  - b. All above-ground swimming pools that have a minimum side-wall height of four (4) feet need not be fenced, but shall have removable steps.
3. Outdoor Spas. All outdoor spas shall have either a fence as described herein, or a secured cover. The secured cover shall be constructed of a material and be so secured as to be impenetrable by toddlers.

## **10-18-11: SOLAR ENERGY SYSTEMS:**

- A. **Accessory Use:** Solar Energy Systems are permitted as an accessory use in all districts.
- B. **Roof mounted and building integrated solar system:** Roof mounted and building integrated solar energy systems are permitted on all structures provided:
  - 1. Roof mounted solar panels shall meet the height requirements of the zoning district.
  - 2. No more than 80% of the roof shall be covered in solar panels.
  - 3. Solar panels and associated structures shall not project beyond the edge of the roof.
  - 4. Building integrated systems shall not be placed on the street facing front of any structure.
  - 5. For commercial and industrial uses, roof mounted systems shall meet the requirements established for rooftop mechanical equipment.
- C. **Ground mounted solar energy systems:** Ground mounted solar energy systems are permitted as follows:
  - 1. Ground mounted systems shall comply with all regulations related to accessory buildings and structures, except as follows:
    - a. The system is exempt from accessory structure number and area limitations except as provided herein.
    - b. Ground mounted systems shall not exceed ten feet in height.
  - 2. Ground mounted systems 200 square feet in area or less are a permitted accessory use in all districts.
  - 3. Ground mounted systems greater than 200 square feet in area may be permitted in RR, ML-PUD, A-1, A-2, and A-3 Districts when in receipt of a conditional use permit and meeting the following standards:
    - a. The system shall be screened from neighboring properties.
    - b. The system shall not exceed 25% of the structure size limits for accessory buildings for the lot.

4. Ground mounted systems greater than 200 square feet but less than 1000 square feet may be permitted on all commercial, industrial, institutional, and multi-family parcels when in receipt of a conditional use permit and meeting the following standards:
  - a. The system shall not exceed 10% of the area of the lot.
  - b. The system shall be screened from neighboring residential properties. (Ord 223, SS, 8-15-16)

**10-18-12: TEMPORARY FAMILY HEALTH CARE DWELLINGS:**

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of St. Francis opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

(Ord. 222, SS, August 15, 2016)

## CHAPTER 19

### GENERAL PARKING, LOADING, AND ACCESS REQUIREMENTS

#### SECTION:

- 10-19-1: Purpose
- 10-19-2: Application of Off-Street Parking Regulations
- 10-19-3: General Provisions
- 10-19-4: Performance Standards
- 10-19-5: Joint Parking Requirements
- 10-19-6: Off-Site Parking
- 10-19-7: Proof of Parking Requirements
- 10-19-8: Design and Maintenance of Off-Street Parking
- 10-19-9: Parking Supply Requirements
- 10-19-10: Off-Street Loading Requirements

**10-19-1: PURPOSE.** The regulation of off-street parking spaces, loading areas, and site access is to alleviate or prevent congestion of the public rights-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking and loading areas for motor vehicles in accordance with the intensity of utilization of various parcels of land or structures.

**10-19-2: APPLICATION OF OFF-STREET PARKING REGULATIONS.** The regulations and requirements set forth in this Chapter shall apply to the required and non-required off-street parking facilities in all use districts.

#### **10-19-3: GENERAL PROVISIONS.**

- A. **Site Plan Requirements.** All applications for a building permit or a certificate of occupancy in all zoning districts shall be accompanied by a site plan, indicating the location and number of off-street parking and loading spaces, meeting the requirements set forth in this Chapter.
- B. **Permits Prior to Effective Date.** Structures or uses for which a building permit has been issued prior to the effective date of this Ordinance shall be exempt from the parking requirements in this Ordinance if the structure is completed within six (6) months after the effective date of this Ordinance.
- C. **Reduction of Existing Off-Street Parking Space.** Off-street parking spaces and loading spaces existing upon the effective date of this Ordinance shall not be reduced in number unless the number exceeds the requirements set forth herein for a similar new use.

- D. **Change of Use or Occupancy of Land.** No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by this Ordinance.
- E. **Change of Use or Occupancy of Buildings.** Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until additional parking spaces are provided as required by this ordinance.
- F. **Off-Site Parking Facilities.** When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use.
- G. **Use of Parking Area.** All parking lot designs shall be well planned to minimize conflicts between vehicular and pedestrian traffic. Required off-street parking spaces in any district shall not be utilized for vehicle repair, open storage, stockpiling of snow, debris, materials, goods or for the storage of vehicles which are inoperable or for sale or for lease. Parking spaces for the disabled shall comply with current state requirements.
- H. **Computation of Required Spaces.** In computing the number of parking or loading spaces required the following rules shall govern:
1. The term "floor area" for the purpose of calculating the number of off-street parking spaces shall be the net usable floor area of the various floors, exclusive of hallways, utility space, restrooms, window show cases, and ornamental space not used for assembly.
  2. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
  3. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a similar use as determined by the Zoning Administrator.
  4. When computing total number of parking spaces required for a use, individual activities within the use will be calculated separately and added together to arrive at the total required parking spaces for each specific use proposed.



- I. **Disability Accessible Parking.** Disability parking and associated signage shall be provided per the applicable State or Federal standards, whichever is more restrictive. (Ord 153, SS, 5-8-11)

**10-19-4: PERFORMANCE STANDARDS.** All off-street parking facilities shall comply with the following dimensional standards:

A. **Drive Aisles/Parking Lots/Stall Dimensions.**

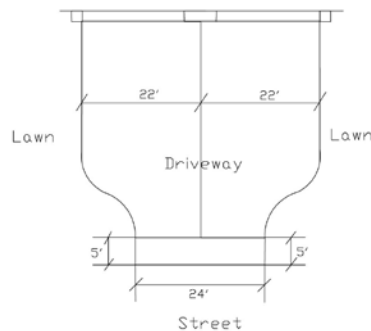
Angle	Minimum Stall Dimensions	Minimum Parking Lot Drive Aisle Width
90 Degree	9 x 19	24 feet (two-way traffic)
60 Degree	9 x 19	18 feet (one-way traffic)
Parallel	8 x 22	24 feet (two-way traffic)

B. **Driveway Requirements.**

1. Two-way traffic: Twenty-four (24) feet.
2. One-way traffic: Twenty (20) feet minimum if for fire truck access.
3. Drive-up window lanes: Fourteen (14) feet if fire truck access required.
4. All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the City.
5. Bituminous, concrete, pavers, or other similarly surfaced driveways on paved roadways shall extend to and adjoin the existing paved surface. Driveways constructed along roads that are constructed as a rural section street shall meet the rural driveway standard set forth in the City's Development Standards. (Ord 153, SS, 5-8-11)
6. Driveways of any type surface shall maintain at least a three-foot side yard adjacent property lines in residential districts. Driveways that service commercial and industrial uses may extend to the side property line with approval by the adjacent land owner.
7. No residential driveway shall exceed twenty-four (24) feet in width at the point where it adjoins the street. The driveway shall not exceed a width of twenty-four (24) feet for a distance of at least five (5) feet behind the street, at which point the driveway may exceed twenty-four (24) feet in width.

8. Two single family residences may share a driveway provided both parcels have adequate frontage, easements are recorded, both property owners agree to maintenance and dissolution agreements, and the driveway meets the minimum fire and safety standards. No more than two single family residences may share a driveway. For the purposes of setbacks, the two parcels shall be counted as one, while the agreement is in effect.
9. No residential driveway access shall be allowed onto a designated collector or arterial street, unless the Planning and Zoning Commission finds that no other practical alternative exists and the Council approves said access.
10. No driveway shall obstruct drainage utility access, or impair public safety. When necessary, the lot owner shall install a culvert of adequate size and type, as determined by the City Engineer.
11. All driveways in the Urban Service Area that are constructed after the effective date of this Chapter shall be constructed with bituminous, concrete, pavers, or other similar surface. (Ord 153, SS, 5-8-11)
12. Driveways shall not have a slope of greater than ten (10) percent.
13. Driveways in the Rural Service Area shall be of a design that will provide reasonable access for emergency service vehicles and meet all fire and public safety standards. At a minimum, the driveway shall have at least a 10 foot driving surface, with a driveway base that is suitable to support the City's largest piece of fire fighting apparatus. Obstructions adjacent to and directly over the driveway, including but not limited to; tree branches, shrubs, landscaping materials, etc. shall be removed.
14. All new or relocated driveways shall require a permit prior to construction. Driveways located on City streets shall obtain a permit from the City of St. Francis. Driveways located on State Highway 47 shall obtain a permit from MnDOT and driveways located on a County Road shall obtain a permit from the Anoka County Highway Department.
15. The property owner shall be responsible for the maintenance in safe condition of all driveways leading to his or her property, including the portions of sidewalks used as part of said driveways.
16. The center island separating townhome driveways shall be landscaped with hardy shrubs.
17. The center island separating townhome driveways shall not be used for snow storage.

18. The property owners of the townhomes shall share maintenance responsibilities of the center island.
19. In lieu of two separate townhome driveways, one shared driveway may be utilized subject to the following conditions:
  - a. The shared driveway shall not exceed twenty-four (24) feet in width at the point it adjoins the street.
  - b. Townhome driveways shall be required and maintained by a property owner association.



20. Town homes and multi-family dwellings under the ownership and/or control of a property owner association shall be maintained, repaired, and replaced under the cost of property owner association. Said association shall maintain a capital improvement program for the driveways under its ownership.
  21. In the Rural Residential and Marginal Land PUD Districts, primary driveways that lead to the principle structure or primary garage shall be paved with a bituminous, concrete, paver, or similar surface. Secondary driveways shall be paved in a similar manner from the edge of the constructed public roadway to the property line, at minimum. All other rural driveway standards shall be met. The City Engineer may waive this requirement in cases where the adjacent public roadway is not paved. (Ord 153, SS, 5-8-11)
- C. **Private Street Standards.** All private streets intended to service Commercial, Industrial, Institutional, and Multi-family Projects shall be constructed in accordance to the City's Public Street Standard, including but not limited to; street width, curb and gutter, intersection standards, pavement section and design standard.

**10-19-5: JOINT PARKING REQUIREMENTS.** Required parking facilities serving two (2) or more uses may be located on the same lot or in the same structure, except in residentially zoned districts, provided that the total number of parking spaces furnished shall be not less than the sum total of the separate requirements for each use during any peak hour parking period when the parking facility is used at the same time by two (2) or more uses. Conditions required for joint uses are:

- A. The proposed joint parking space is within five hundred (500) feet of the use it will serve.
- B. The applicant shall demonstrate that there is not substantial conflict in the principal operating hours of the two (2) or more buildings or uses for which joint use of off-street parking facilities is proposed.
- C. A properly drawn legal instrument executed by the parties concerned for joint use of off-street parking facilities shall be filed as a deed restriction on both properties in the recorder's office of Anoka County.

**10-19-6: OFF-SITE PARKING.**

- A. Any off site parking which is used to meet the requirements of this Ordinance may, as applicable, be allowed by a conditional use permit for long term off site parking facilities as regulated under the provisions of Chapter 6 of this Ordinance, or an interim use permit for short term temporary off site parking facilities as regulated under the provisions of Chapter 7 of this Ordinance, and shall be subject to the conditions listed below.
- B. Off site parking shall be developed and maintained in compliance with all requirements and standards of this Ordinance.
- C. Reasonable access from off-site parking facilities to the use being served shall be provided.
- D. Except as provided by this Ordinance, the site used for meeting the off-street parking requirements shall be under the same ownership as the principal use being served or under public ownership.
- E. Off-site parking for multiple-family dwellings shall not be located more than two hundred fifty (250) feet from any normally used entrance of the principal use served.
- F. Off-site parking for non-residential uses shall not be located more than five hundred (500) feet from the main public entrance of the principal use being served. Off site parking located more than five hundred (500) feet from the main entrance may be allowed with the provision of a private shuttle service.

- G. Any use which depends upon off-site parking to meet the requirements of this Ordinance shall maintain ownership and parking utilization of the off-site location until such time as on site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

**10-19-7: PROOF OF PARKING REQUIREMENTS.** The City may allow reductions in the number of required parking spaces to be installed under one (1) or more of the following circumstances via a conditional use permit: (Ord 153, SS, 5-8-11)

- A. The unique characteristics of the proposed use are such that it will generate a need for less parking than the Ordinance standard; or
- B. All requests for reductions in the amount of required parking to be installed shall be accompanied by a plan showing where the total required parking spaces can be added on the lot, if necessary, up to the total amount required by this Ordinance, (meeting green area requirements) without requiring a variance.

**10-19-8: DESIGN AND MAINTENANCE OF OFF-STREET PARKING.**

**A. Curb Cuts and Property Access Points.** (Ord 153, SS, 5-8-11)

- 1. Width. No driveway curb cut access within the public right-of-way shall exceed twenty-four (24) feet.
- 2. Number Allowed. Residential lots within the Urban Service Area shall be limited to no more than one driveway access on to a public street. Residential lots within the Rural Service Area may have two driveway accesses, provided the driveways have at least a one hundred (100) foot separation and the second driveway is intended to service an accessory structure. Both driveways shall have culverts meeting City Code requirements. Lots developed for Commercial, Industrial, Multi-family and/or Public Institutional uses may be permitted multiple driveways onto a public street after review and approval by the City Engineer.
- 3. Setbacks. Curb cuts may not be placed closer than three (3) feet to any side or rear lot line.
- 4. County/State Roads. Curb cuts onto County/State roads shall require review by the County/State Engineer. The County/State Engineer shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

5. **Sensitive Areas.** Curb cuts to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles as determined by the City Engineer.
- B. **Signs.** Signs shall not be located in a required parking area except as necessary for disability accessibility and for the orderly operation of traffic movement. Such signs shall not be a part of the permitted advertising space.
- C. **Curbing.** Except for single, two family and townhouses, all open off-street parking shall have a perimeter concrete curb barrier around the entire parking lot. Said curb barrier shall be set back a minimum of five (5) feet from any property line.
- D. **Striping.** Except for single, two family and townhouses, all parking stalls shall be marked with white or yellow painted lines not less than four (4) inches wide.
- E. **Surfacing.** All commercial, industrial, and institutional parking spaces and driveways shall be surfaced with concrete, bituminous, or pavers in all zoning districts. Other materials such as decorative rock, gravel, sand, or bare soil are prohibited. All parking areas and driveways shall be maintained in a safe and proper manner. The owner shall not allow weeds or surface materials to become deteriorated.
- F. **Lighting.** Lighting in an off-street parking area shall be shaded or diffused so as to reflect the light away from adjoining property and adjacent traffic areas as regulated in accordance with Section 10-16-8 of this Ordinance. All light fixtures shall be a down-cast style.
- G. **Maintenance of Off-Street Parking Spaces.** It shall be the joint responsibility of the operator and owner of the principal use, uses and/or building to maintain, in a neat and adequate manner, the parking space, access ways, landscaping and required fencing.
- H. **Location.** All accessory off-street parking facilities required herein shall be located as follows:
1. Spaces accessory to one and two family dwellings shall be on the same lot as the principal use served unless guest parking is provided elsewhere.
  2. There shall be no off-street parking space within five (5) feet of any property line except as provided below:
    - a. B-2 and B-3 Districts. Zero lot line parking area setbacks shall be allowed within B-2 and B-3 Districts subject to the following conditions:

- (1) A five (5) foot parking area setback shall be maintained along street rights-of-way (not including alleys). Such setback area shall be sodded or landscaped with approved ground cover, shrubs or trees.
  - (2) The parking area shall not abut a residential zoning district or use.
  - (3) If applicable, a maintenance and joint use agreement shall be executed and recorded against the titles of the affected properties.
  - (4) Encroachment into established utility easements shall be allowed only via permit and an encroachment agreement with the City.
- b. Shared Access and Joint Parking. Zero lot line setbacks shall be allowed in cases of shared access and joint parking subject to the following conditions:
  - (1) The access and/or parking area layout is approved by the City Engineer.
  - (2) A maintenance and joint use agreement shall be executed and recorded against the titles of the affected properties.
  - (3) If applicable, the conditions of Section 10-19-5 of this Ordinance related to joint parking are satisfied.
3. When parking stalls abut a sidewalk, the minimum sidewalk width shall be six (6) feet.
4. Parking stalls shall not be located where they obstruct doorways, driveways, or pedestrian walkways.
5. All disability accessible stalls shall be located in close proximity to entrance areas and shall not be hindered by inappropriately located curb cuts, catch basins, etc.
- I. **Use of Parking Area.** Required off-street parking spaces in all districts shall not be used for open storage, or sale of goods, or for the storage of vehicles which are inoperable, for lease, rent or sale or the stockpiling of snow.

- J. **Parking and Storage of Recreational Vehicles.** The parking and storage of recreational vehicles shall be regulated in accordance with Section 7-4-5 of the City Code and Section 10-16-15 of this Ordinance.

**10-19-9: PARKING SUPPLY REQUIREMENTS.**

USES	REQUIRED NUMBER OF PARKING SPACES
<b>RESIDENTIAL</b>	
Assisted Living Facility	One-half ( $\frac{1}{2}$ ) space per unit.
Daycare Nursery	One (1) space per teacher/employee on the largest work shift, plus one (1) off-street loading space per six (6) students.
Elderly (Senior Citizen) Housing (uses with occupancy limited to persons age 55 and over)	One (1) space per unit. One-half ( $\frac{1}{2}$ ) of required stalls may be provided at initial development for projects with occupancy restricted to persons age 55 and older. The development shall include a proof-of-parking area sufficient to meet the parking requirements.
Group Home (Dwelling)	One (1) space per sleeping room or one (1) space for every four (4) beds.
Manufactured Home	Two (2) parking spaces per manufactured home (A minimum of one (1) parking space shall be enclosed)
Multiple Family (Apartment) Dwelling (see also Guest Parking)	One and one-half ( $1\frac{1}{2}$ ) parking spaces for each efficiency and one bedroom unit and two and one-quarter ( $2\frac{1}{4}$ ) parking spaces for units with two (2) or more bedrooms. A minimum of one (1) of the required parking spaces per unit shall be an enclosed garage space. A land area requirement credit of three hundred (300) square feet toward the satisfaction of lot area requirements shall be given for each garage space under the principal building.
Multiple Family Guest Parking	One-half ( $\frac{1}{2}$ ) space per townhouse or apartment unit, distributed throughout the development, in addition to the required parking per unit.
Nursing Home other than Assisted Living Facility	One (1) space per six (6) patient beds, plus one (1) space per employee on the largest work shift.
One and Two Family Residence	A four hundred forty (440) square foot garage shall be constructed at the same time as the principal structure. (Ord 181, SS, 4-21-13)



USES	REQUIRED NUMBER OF PARKING SPACES
Townhome Dwelling Unit  (see also Guest Parking)	Each dwelling unit shall have an attached garage with a minimum of two (2) garage spaces and two (2) driveway spaces per unit. The minimum garage space shall be two hundred twenty (220) square feet for dwellings with basements and five hundred forty (540) square feet for dwellings without basements. Garages shall be a minimum of twenty (20) feet in width.
<b>COMMERCIAL:</b>	
Automobile Repair (Associated with Motor Fuel Station)	Two (2) spaces for each service stall plus motor fuel requirements.
Automobile Repair, Major	At least two (2) off-street parking spaces plus four (4) off-street parking spaces for each service stall.
Automobile Repair, Minor	One (1) space per two hundred (200) square feet of floor area.
Automobile Sales	One (1) space per five hundred (500) square feet of showroom plus one (1) space for each three thousand (3,000) square feet of outdoor sales lot.
Bank	One (1) parking space for each three hundred (300) square feet of floor area plus five (5) stacking spaces for each drive-in window.
Bar, Tavern, Night Club	At least one (1) space per three (3) patron seats, plus one (1) space per employee on the largest work shift.
Beauty or Barber Shop	Two (2) parking spaces per chair, plus one (1) space per employee on the largest work shift.
Boarding House	At least one (1) parking space for each person for whom accommodations are provided for sleeping.
Bowling Alley	Five (5) parking spaces for each alley, plus additional spaces as may be required herein for related uses contained within the principal structure.
Car Wash (Accessory to motor fuel station)	Four (4) off-street stacking spaces per drive-through car wash. The bay inside the car wash shall not be considered a stacking space.
Car Wash (Drive-Through) as Principal Use	A minimum of ten (10) spaces or one (1) space for each employee on the maximum shift, whichever is greater.
Community Center, Private Club, Lodge, Museum, Art Gallery	Ten (10) spaces, plus one (1) for each one hundred fifty (150) square feet in excess of two thousand (2,000) square feet of floor area in the principal structure.
Convenience Grocery	One (1) parking space per one hundred (100) square feet of floor area. Parking areas at pump islands may be counted as parking spaces.

USES	REQUIRED NUMBER OF PARKING SPACES
Fitness Center	One (1) space per exercise station (e.g., strength machine or cardiovascular) plus one (1) space per employee on the largest work shift plus additional parking required for ancillary uses.
Funeral Home	Twenty (20) spaces per chapel or parlor, plus one (1) space for each company vehicle maintained on site. Adequate stacking space shall also be provided for staging funeral processions.
Grocery or Supermarket	One (1) space per one hundred (100) square feet of floor area of customer sales and service, plus one (1) space per two hundred (200) square feet of floor area of storage.
Hotel or Motel	At least one (1) space for each dwelling unit or lodging room, plus one (1) additional space for each eight units. Additional spaces shall be required for liquor or restaurant facilities.
Instructional Studio (Dance, Karate, Music, and similar uses)	One (1) space for each two hundred (200) square feet of floor area.
Laundromat	One-half (½) space per machine.
Mini-Storage	Two (2) parking spaces per employee area plus one (1) space per six thousand (6,000) square feet of indoor storage area.
Motor Fuel Station	One (1) space per pump plus one (1) space per employee on the largest work shift. With convenience grocery; include one (1) space per one hundred (100) square feet of floor area. Parking areas at pump islands may be counted as parking spaces.
Outdoor Storage and/or Display of Retail Merchandise	One (1) space per two thousand (2,000) square feet of outdoor storage or display area in addition to the total parking required on the site for the individual use.
Pool Hall and Arcade	One (1) space per four (4) patrons at the maximum occupancy load of the facility, plus one (1) space per employee on the largest work shift, plus one (1) space per one hundred (100) square feet of kitchen, dining, or snack bar area.
Religious Institution, Theater, Auditorium	One (1) space for each three (3) seats. Based upon maximum design capacity, plus additional spaces as may be required herein for related uses contained within the principal structure.
Restaurant (Fast Food)	One (1) space per fifty (50) square feet of floor area, plus one (1) space per employee on the largest work shift.
Restaurant (Sit Down) including outdoor seating	Five (5) spaces per one thousand (1,000) square feet of floor area

USES	REQUIRED NUMBER OF PARKING SPACES
Restaurant, Take-Out (No seating)	One (1) space per one hundred (100) square feet of floor area.
Retail Sales and Multiple occupancy retail service building	One (1) space per two hundred fifty (250) square feet of floor area and outdoor sales space.
Retail Sales/Service and storage	One (1) space per two hundred (200) square feet of floor area of retail space and one (1) space per five hundred (500) square feet of storage area.
<b>OFFICE:</b>	
Medical, Dental, or Chiropractic Office or Clinic	Five (5) spaces per doctor or dentist, plus one (1) space for each employee on the largest work shift.
Office (Business and Professional)	One (1) space for each four hundred (400) square feet of floor space.
Veterinary Office (with or without kennels)	Three (3) spaces per doctor, plus one (1) space per employee on the largest work shift.
<b>INDUSTRIAL:</b>	
Industrial	A minimum of one (1) space per employee on the largest work shift plus one (1) space per company vehicle regularly stored on premises, plus addition spaces that may be required depending upon the specific use.
Manufacturing, Fabricating or Processing of a Product	One (1) space per one thousand (1,000) square feet of floor area, plus one (1) space for each company owned truck (if not stored inside principal structure).
Manufacturing, Office	One (1) space per three hundred fifty (350) square feet of floor area, plus one (1) space per company vehicle not stored within the principal structure.
Warehouse	Office Area: One (1) space per two hundred (200) square feet of office area.
	Warehouse Area: One (1) space per one thousand (1,000) square feet of floor area plus one (1) space per company vehicle not stored within principal structure.
<b>INSTITUTIONAL:</b>	
Cemetery	One (1) space per employee
Church	One (1) space per three (3) seats of maximum capacity.
Community Recreation Center	One (1) space per two hundred fifty (250) square feet of floor area, or one (1) space per four (4) patrons at the maximum occupancy load, whichever is greater, plus one (1) space per employee on the largest work shift.

USES	REQUIRED NUMBER OF PARKING SPACES
Hospital	Two (2) spaces per three (3) patient beds, plus one (1) space per employee on the largest work shift.
Library	One (1) space per two hundred fifty (250) square feet of floor area or one (1) space per four (4) seats at the maximum occupancy load, whichever is greater, plus one (1) space per employee on the largest work shift.
School, College or Trade	One (1) space per staff member on the largest work shift, plus one (1) space per two (2) students of the largest class attendance period.
School, Elementary and Junior High	One (1) space per seven (7) students based upon building design.
School, High School and Post High School Facilities	One (1) space per three (3) students based on building design capacity, plus one (1) space per classroom.
<b>RECREATIONAL:</b>	
Athletic Field (Private or private nonprofit)	One (1) space per eight (8) seats of design capacity.
Athletic Stadium/Auditorium/Indoor Sports Area	One (1) space per four (4) seats.
Golf Course	Four (4) spaces per hole, plus fifty (50) percent of the requirements for any other associated use, except in planned residential, resort, or commercial developments, which have otherwise adequate provisions for parking.
Golf Driving Range, Miniature Golf, Archery Range	Ten (10) off-street spaces, plus one (1) for each one hundred (100) square feet of floor area.
Skating Rink, Ice	One (1) space per three hundred (300) of rink area.
Tennis, Racquet, Handball Court	Four (4) spaces per court, plus one (1) space per employee on the largest work shift.
<b>GENERAL PARKING</b>	
Uses Not Listed	The parking space requirement for a use not specifically mentioned herein shall be the same as required for a similar use as determined by the Zoning Administrator.

**10-19-10: OFF-STREET LOADING REQUIREMENTS.** Any of the following uses with a gross floor area of six thousand (6,000) square feet or more which requires deliveries or shipments shall provide off-street loading facilities in accordance with the requirements specified below unless a conditional use permit is granted:

- A. Every retail establishment, industrial or manufacturing use, warehouse, or wholesale use having a gross floor area of six thousand (6,000) square feet or more shall provide off-street loading facilities as follows:

<b>Gross Floor Area in Square Feet</b>	<b>Number of Loading Spaces</b>
6,000 - 24,999	1
25,000 – 74,999	2
75,000 – 150,000	3
For each additional one hundred thousand (100,000) square feet (or fraction thereof) of gross floor area	One (1) additional off-street loading space shall be provided

- B. Every public assembly use, such as auditoriums, convention halls, exhibition halls, stadiums or sports arenas, with a gross floor area of greater than one hundred thousand (100,000) square feet shall be provide a minimum of one (1) off-street loading space.
- C. Funeral Homes, restaurants and hotels with a gross floor area of greater than thirty thousand (30,000) square feet and offices with a gross floor area of one hundred thousand (100,000) square feet or more shall provide a minimum of one (1) off-street loading space.
- D. Off-street loading spaces shall be at least ten (10) by twenty-five (25) feet, excluding area for maneuvering vehicles.
- E. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public street while the truck or van is being loaded or unloaded.

## CHAPTER 20

### FENCING / SCREENING / LANDSCAPING

#### SECTION:

- 10-20-1: Purpose
- 10-20-2: Fences
- 10-20-3: General Landscaping and Maintenance
- 10-20-4: Required Landscaping
- 10-20-5: Required Landscape Screening
- 10-20-6: Screening of Mechanical Equipment

**10-20-1: PURPOSE:** The purpose of this chapter is to establish standards for the installation of fencing, screening, and landscaping as may be required by other chapters of this Ordinance and to protect the general health, safety, and welfare of the City.

**10-20-2: FENCES:** Fences shall be permitted in all yards subject to the following:

- A. **General Standards:** All fences shall be located on private property, not within the public right-of-way, and outside of wetland buffers.
- B. **Permit Required:** It is unlawful for any person to construct or cause to be constructed any fence without first making an application for and securing a fence permit.
- C. **Locations:** All boundary line fences shall be located entirely upon the private property of the person constructing or causing the construction of such fence. The building official may require any applicant for a fence permit to establish the boundary of a person's property by a survey thereof to be made by a registered land surveyor. The location of the fence is subject to the following:
  - 1. Fences may be placed along the property line provided no physical damage of any kind results to the abutting property and permission is granted in writing from the abutting property owner and submitted with the application.
  - 2. In the urban residential districts, fences on or within two (2) feet of the property line shall require a certificate of compliance stating that the property owner constructing the fence shall maintain both sides of said fence, unless a written agreement has been entered into with the abutting property owner(s) and is on file with the City.

3. All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced.
4. All fences shall not obstruct natural drainage.

**D. District Standards:**

1. In the RR, ML-PUD, R-1, R-2, R-3, and R-4 Districts, fencing shall be restricted to a height of six (6) feet for side and rear yards and a height of four (4) feet within the front yard setback. All fences shall be residential in nature such as chain link, wrought iron, vinyl, split-rail, or board and picket. Barbed wire, electric, and other agricultural fences may be used in the RR District in conjunction with a legally permitted use in Section 8-3-2 (Animals and Fowl, Keeping, Transporting, Treatment, Housing) of the City Code. (Ord. 190, Effective 1/18/14)
2. In the A-1, A-2, and A-3 Districts, all fencing for non-agricultural purposes shall be no taller than six feet in height.
3. In the B-1 and B-2 Districts, fencing is not allowed between the principal structure and any public right-of-way. Fences shall be no greater than six (6) feet in height. Fences no greater than four (4) feet in height may be permitted with a conditional use permit in front of the principal structure. (Ord. 190, Effective 1/18/14)
4. In the B-3, I-1, I-2, and I-3 Districts, fences shall be no greater than eight (8) feet in height. Fences greater than four (4) feet in height shall not be placed in the front yard. Fences greater than eight (8) feet in height may be permitted with a conditional use permit when meeting all district setbacks. (Ord. 190, Effective 1/18/14)
5. Fences up to sixteen (16) feet in height may be allowed in any district provided the fence is used as an enclosure for a tennis or sport facility.
6. Erosion control fences are permitted in all districts in conjunction with a permitted activity.
7. It is unlawful for any person to erect or maintain a barbed wire fence upon his property, which fence is less than six (6) feet above the ground and within three (3) feet of a sidewalk or public right-of-way except in those areas in which the owners are permitted to keep, stable or board animals under the provisions of the City Code.

**10-20-3: GENERAL LANDSCAPING AND MAINTENANCE:**

- A. All exposed ground areas, including street boulevards, and areas not devoted to off-street parking, drives, sidewalks, patios or other such improvements shall be landscaped with grass, shrubs, trees or other ornamental landscape materials within one year following the date on which the certificate of occupancy is issued.
- B. All landscaped areas shall be maintained by the property owner and kept neat, clear and uncluttered, and where landscaping is required as part of City approvals, any plant material which is diseased or dies shall be replaced with like kind of the original size.
- C. Fences and/or plantings placed upon utility easements are subject to removal by the City or utility company if required for maintenance or improvement of the utility. In such case, costs for removal and replacement shall be the responsibility of the property owner. Trees on utility easements containing overhead wires shall not exceed fifteen (15) feet in height, and such trees shall be the property owner's responsibility to maintain.

**10-20-4: REQUIRED LANDSCAPING: (Ord. 171, SS, 9/10/12)**

- A. Landscape Plan Required. All new residential subdivisions with three (3) or more lots, residential structures with three (3) or more dwelling units, commercial uses, industrial uses, and institutional uses shall be subject to minimum landscaping and planting material specification requirements outlined in this Section. A landscape plan shall be developed with an emphasis upon the boundary of the subject site, parking lots, and foundation of the principal structure, in accordance with the information requirements outlined in Section 10-9-6 of this Ordinance.
- B. Design Standards and Criteria. All landscaping incorporated in the landscape plan shall conform to the following standards and criteria:
  - 1. Types of New Trees. Trees suitable for complying with this Chapter shall include those specified below or similar, if deemed acceptable by the Zoning Administrator:
    - a. Deciduous Trees. Required plantings of deciduous trees shall be of the following type: White Oak, Northern Red Oak, Eastern Pin Oak, Swamp White Oak, Kentucky Coffee Tree, Basswood, Littleleaf Linden, Redmond Linden, Hybrid Elm, Sugar Maple, Red Maple, Norway Maple, or Black Cherry.
    - b. Evergreen Trees. Required plantings of evergreen trees shall be of the following type: Douglas Fir, White Fir, Hemlock, Austrian Pine,



White Pine, Ponderosa Pine, Norway Pine, Scotch Pine, Eastern Red Cedar, Black Hills Spruce, Norway Spruce, and White Spruce.

- c. Ornamental Trees. Required plantings of ornamental trees shall be of the following type: River Birch, Chokecherry, Crabapple, Dogwood, Flowering Crabs, Hawthorn, Mountain Ash, Plum, Russian Olive, or Serviceberry.

- 2. Minimum Size. All plants shall at least equal the following minimum sizes: (NOTE: Type and mode are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, manmade irrigation, grading, etc.)

Potted/Bare Root or  
Balled or Burlapped

Shade trees	2 inch diameter
Ornamental trees	2 inch diameter
Evergreen trees	4 feet
Tall shrubs and hedge material (evergreen or deciduous)	3 to 4 feet
Low Shrubs	
- Deciduous	24 to 30 inches
- Evergreen	24 to 30 inches
- Spreading evergreens	18 to 24 inches

- 3. Spacing.
  - a. Plant material centers shall not be located closer than three (3) feet from the fence line or property line and shall not be planted to conflict with public plantings, sidewalks, trails, fences, parking areas, and driveways based on the judgment of the Zoning Administrator.
  - b. Where plant materials are planted for screening purposes in two (2) or more rows, plantings shall be staggered in rows unless otherwise approved by the Zoning Administrator.
  - c. Evergreen trees intended for screening shall be planted not more than fifteen (15) feet apart.

- d. Where massing of plants or screening is intended, large deciduous shrubs shall be planted four (4) feet on center or closer, and/or, evergreen shrubs shall be planted three (3) feet on center or closer.
- 4. Design (except for pond slopes which shall be subject to the review and approval of the City Engineer):
  - a. The landscape plan shall show some form of designed site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc.) which are largely intended for aesthetic purposes.
  - b. All areas within the property lines (or beyond, if site grading extends beyond) shall be treated. All exterior areas not paved or designated as roads, parking, or storage shall be planted into ornamental vegetation (lawns, ground covers, or shrubs) unless otherwise approved by the Zoning Administrator.
  - c. Turf slopes in excess of three to one (3:1) are prohibited.
  - d. All ground areas under the building roof overhang shall be treated with a decorative mulch and/or foundation planting.
  - e. All buildings shall have an exterior water spigot or irrigation system to ensure that landscape maintenance can be accomplished.
  - f. Trees and shrubs shall not be planted in the right-of-way except as approved by the City Council.
  - g. All plants required as part of an approved landscaping plan shall be maintained and kept alive. Dead plants shall be replaced in accordance with the approved landscape plan.
- 5. Minimum Required Plantings.
  - a. Single and Two-Family Residential. All new single family residences or duplex units shall follow the sodding and ground cover requirements found in Section 10-20-4.C and two (2) deciduous trees, of which one shall be placed in the front yard.
  - b. Multi-Family, Institutional, Commercial, and Industrial.
    - (1) In order to achieve landscaping which is appropriate in scale with the size of a building site, the minimum number of caliper inches of trees required shall be determined by dividing the total gross square footage of all floors of a

building by three hundred twenty (320). A single story building in excess of twenty (20) feet in height shall be considered a two story building for the purposes of determining its total gross footage. A mixture of plant material sizes shall be required.

- (2) The complement of trees fulfilling the requirement in Section 10-20-4.B.5.b(1) shall not be less than twenty-five (25) percent deciduous, twenty-five (25) percent evergreen, and ten (10) percent ornamental. For the purposes of this ordinance, a four (4) foot tall evergreen tree is equal to two (2) caliper inches.
- (3) Deciduous and evergreen trees shall be of more than one species each.
- (4) Planting islands may be required where necessary to visually break-up expanses of hard surface parking areas, for safe and efficient traffic movement, and to define rows of parking. Planting islands may occupy up to at least five (5) percent of the required parking area.
- (5) All parking, loading, service, utility, and outdoor storage areas shall be screened from all public roads and adjacent differing land uses. The screening shall consist of any combination of the following: earth mounds, walls, fences, evergreen trees, tall shrubs, or low shrubs. The height and depth of the screening shall be consistent with the height and size of the areas for which screening is required. When natural materials, such as trees and hedges, are used to meet the screening requirements of this section, density and species of planting shall be such to achieve seventy-five (75) percent opacity year round.
- (6) These standards may be waived for properties in the B-1 and I-2 Districts by the Zoning Administrator, provided steps are taken to lessen the impact of the development on adjacent residential properties.

6. Existing Trees. All existing, preserved trees or other vegetation on site that are suitable for the purpose intended by this Ordinance in the opinion of the Zoning Administrator may count towards any required plantings provided the trees are in good condition and disease free.

C. Sodding and Ground Cover. All open areas of site not occupied by building, parking, or storage shall be either seeded or sodded.

1. The developer shall assure that the front and side yards of each lot are properly graded, three (3) inches of top soil added, sod laid to complete front yard (including right-of-way), and seeding or sodding has been added to the remainder of the disturbed area of the lot. Seeding will be allowed in the front yard if a sprinkler system is also installed.
  2. If a house or project is completed when weather conditions do not allow sodding or seeding, the developer or home builder shall submit to the City the following:
    - a. A temporary certificate of occupancy granted for the building during the non-growing season provided that the owner establishes a cash escrow with the city equal to one and one-half (1½) times the estimated cost of ground cover or a minimum of three thousand dollars (\$3,000.00) whichever is more, plus a seventy-five dollar (\$75.00) non-refundable administrative fee. Upon satisfactory installation of the ground cover, the escrow will be returned to the owner and a certificate of occupancy issued.
    - b. If the ground cover is not installed by June 1<sup>st</sup> of the following year, the owner will forfeit the escrowed funds and be required to vacate the property until the certificate of occupancy can be issued when ground cover has been installed. The cost to install the ground cover shall be at the homeowner's expense.
- D. Landscape Guarantee. All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting. Prior to the issuance of a Certificate of Occupancy, the City may require a Performance Bond, with a corporation approved by the City as surety thereon, or other guarantee acceptable to the City, in an amount to be determined by the City, but for not less than one and one-half (1½) times and no more than two (2) times the amount estimated by the City as the cost of completing said landscaping and screening.

**10-20-5: REQUIRED LANDSCAPE SCREENING:** All commercial, industrial, or institutional uses shall provide screening along the boundary of any abutting residential district or when the side or rear of the use (as determined by the Zoning Administrator) is separated from any residential district by a public right-of-way. All screening required by this Section shall be subject to Section 10-16-7 of this Ordinance and is to consist of a green belt strip as provided below:

- A. A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be a minimum of twenty (20) feet in width and of a sufficient density to provide a visual screen and reasonable buffer. This planting strip shall be designed to provide visual screening to a minimum height of six (6) feet. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the Zoning Administrator. The planting plan and type of plantings shall require the approval of the Zoning Administrator.
- B. A fence may also be installed, but not in lieu of the green belt planting strip. The fence shall be constructed of masonry, brick, or wood, except as otherwise provided herein. Such fence shall provide a solid screening effect and shall be a minimum of six (6) feet in height but shall not exceed eight (8) feet in height. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the Zoning Administrator. The design and materials used in constructing a required screening fence shall be subject to the approval of the Zoning Administrator.

**10-20-6: SCREENING OF MECHANICAL EQUIPMENT:** All rooftop and ground-mounted mechanical equipment for residential buildings having five (5) units or more and for non-residential buildings shall comply with the following standards:

- A. All rooftop and ground-mounted mechanical equipment shall be screened so as to mitigate noise in compliance with Section 10-16-12 of this Ordinance.
- B. All rooftop and ground-mounted mechanical equipment shall be designed (including exterior color) and located so as to be aesthetically harmonious and compatible with the building. Screening of and landscaping around the equipment may be required where the design, color, and location of the equipment are found to not effectively buffer noise or provide aesthetic harmony and compatibility. Screening shall be constructed of durable materials which are aesthetically compatible with the structure and which may be an integral part of the structure.
- C. Rooftop mechanical equipment less than three (3) feet in height may be exempt from screening requirements by the Zoning Administrator.

## CHAPTER 21

### HOME OCCUPATIONS

#### SECTION:

- 10-21-1: Purpose
- 10-21-2: Application
- 10-21-3: Prohibited Home Occupation Uses
- 10-21-4: General Home Occupation Requirements
- 10-21-5: Permitted Home Occupation Requirements
- 10-21-6: Interim Use Home Occupation Requirements
- 10-21-7: Home Extended Businesses
- 10-21-8: Non-Conforming Uses
- 10-21-9: Inspection

**10-21-1: PURPOSE.** The purpose of this Ordinance is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety, and general welfare of the surrounding neighborhood. In addition, this Chapter is intended to provide a mechanism enabling the distinction between those home occupations having minimal or no secondary impact ("Permitted Home Occupations") and those which have potential for adverse effects upon surrounding areas ("Interim Home Occupations" or "Home Extended Businesses"). (Ord 148, SS, 11-21-2010)

**10-21-2: APPLICATION.** Subject to the non-conforming use provision of this Ordinance, all home occupations shall be further defined to distinguish permitted home occupations from interim home occupations and home extended businesses. Accordingly, all home occupations which satisfy the permitted home occupation criteria shall be considered a permitted accessory use in all residential zoning districts. Home occupations which are not specifically prohibited and fail to satisfy the permitted home occupation criteria shall require an interim use permit, as provided for in this Chapter. (Ord 148, SS, 11-21-2010)

**10-21-3: PROHIBITED HOME OCCUPATION USES.** The following uses have a tendency to be too intense for or potentially disruptive for home occupations and thereby adversely affect residential areas. The following uses are specifically prohibited as home occupations:

- A. Repair services which produce objectionable light, glare, noise or vibration including, but not limited to, auto repair, appliance repair and small engine repair, except as provided for in Section 10-21-7-I. (Ord 148, SS, 11-21-2010)

- B. Teaching or instruction which customarily consists of more than two (2) non-family pupils at a time.
- C. Manufacturing.

**10-21-4: GENERAL HOME OCCUPATION REQUIREMENTS.** The following requirements shall apply to all home occupations (both permitted and interim):

- A. No home occupation shall produce light, glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
- B. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- C. The home occupation shall be clearly incidental and secondary to the residential use of the premises, shall not change the residential character thereof, and shall not result in an incompatibility or disturbance to surrounding residential uses.
- D. No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and State fire and police recommendations.
- E. There shall be no exterior storage of equipment or materials used in the home occupation, except that personal automobiles used in the home occupation may be parked on the site, provided the parking is in conformance with all outdoor storage and parking requirements found in Sections 10-16-15 and 10-19. (Ord 148, SS, 11-21-2010)
- F. The home occupation shall meet all applicable building and fire codes.
- G. No home occupation shall be conducted between the hours of ten o'clock in the evening (10:00 PM) and seven o'clock in the morning (7:00 AM) in a manner where business activity is detectable outside of the residence. (Ord 148, SS, 11-21-2010)
- H. All home occupations shall comply with the provisions of City Nuisance Ordinances, including noise, outdoor storage, parking, and other such standards. (Ord 148, SS, 11-21-2010)

**10-21-5: PERMITTED HOME OCCUPATION REQUIREMENTS.** In addition to the requirements of Section 10-21-4 of this Ordinance, the following additional requirements shall apply to all permitted home occupations:

- A. There shall be no exterior display or signs which are visible from outside the building.
- B. No person other than those who customarily reside on the premises shall be employed.
- C. The operation of any wholesale or retail business shall not be permitted unless:
  - 1. It is conducted entirely by telephone, mail or electronic medium;
  - 2. The merchandise is stored elsewhere than on premises;
  - 3. The business operation does not include the sale of equipment or delivery of merchandise to the premises;
  - 4. Customers do not come to the home for any part of the transaction.
- D. The home occupation shall be conducted entirely within the principal dwelling and shall not be conducted in attached garages or accessory buildings. No more than twenty-five (25) percent of the gross floor area of the principal dwelling shall be used for the home occupation.
- E. The home occupation shall not create a parking demand of more than two (2) vehicles at one time.
- F. The home occupation shall not create a demand for on-street parking. All parking associated with the home occupation shall be off-street and shall be accommodated within the garage and the existing driveway area.
- G. In no case shall the home occupation create a need for an additional driveway access to the property.

**10-21-6: INTERIM USE HOME OCCUPATIONS REQUIREMENTS.** Home occupations which are not specifically prohibited by Section 10-21-3 of this Ordinance and fail to satisfy the permitted home occupation criteria of Section 10-21-4 of this Ordinance shall require an interim use permit and shall comply with the following requirements:

- A. The conditions of Section 4 of this Ordinance shall be satisfied.
- B. No more than one (1) person other than those who customarily reside on the premises shall be employed.
- C. Teaching or instruction activities shall not consist of more than two (2) non-family pupils at a time.



- D. All activity on the premises associated with the home occupation shall not cause any adverse changes to the residential character of the neighborhood.
- E. Any exterior changes necessary to conduct the home occupation are sufficiently screened, properly designed, or separated by distance so as to be consistent with the existing adjacent residential uses and compatible with the residential occupancy.
- F. Any interior changes necessary to conduct the home occupation shall comply with all building, electrical, mechanical and fire codes governing the use of the use in a residential occupancy.
- G. Traffic generated by the home occupation shall involve vehicles types and volumes that typically associated with single family residences and that such traffic does not constitute a nuisance or safety hazard.
- H. Signs associated with the interim home occupation shall be in accordance with Chapter 42 of this Ordinance.
- I. No more than twenty-five (25) percent of the gross floor area of the principal dwelling shall be used for the home occupation.
- J. An attached accessory structure may be used for the home occupation provided the use does not occupy required parking. In all cases there shall be space sufficient for the parking of a minimum of two vehicles in the attached accessory structure. (Ord 148, SS, 11-21-2010)
- K. Any wholesale or retail sales must be incidental to the home occupation or low volume sales restricted by appointment. (Ord 148, SS, 11-21-2010)

**10-21-7: HOME EXTENDED BUSINESSES.** (Ord 148, SS, 11-21-2010) Home extended businesses are home occupations that may be conducted within a detached accessory building. Home extended businesses are allowed as an interim use in the A-1, A-2, A-3, RR, and ML-PUD Districts provided:

- A. The conditions of Section 10-21-4 of this ordinance shall be satisfied.
- B. No more than two (2) persons other than those who customarily reside on the premises shall be employed.
- C. All activity on the premises associated with the home extended business shall not cause any adverse changes to the residential character of the neighborhood.
- D. Any exterior changes necessary to conduct the home extended business are sufficiently screened, properly designed, or separated by distance so as to be

consistent with the existing adjacent residential uses and compatible with the residential occupancy.

- E. Any interior changes necessary to conduct the home extended business shall comply with all building, electrical, mechanical and fire codes governing the use of the use in a residential occupancy.
- F. Traffic generated by the home extended business shall involve vehicles types and volumes that typically associated with single family residences and that such traffic does not constitute a nuisance or safety hazard.
- G. Signs associated with the interim home occupation shall be in accordance with Chapter 42 of this Ordinance.
- H. On parcels greater than 5 (five) acres in size, small engine and appliance repair may be conducted, provided the applicant can sufficiently limit noise and other potential disturbances, and the detached accessory building is in a location that will not allow for likely disturbances to neighboring residences.
- I. Any wholesale or retail sales must be incidental to the home occupation or low volume sales restricted by appointment.

**10-21-8: NON-CONFORMING USES:** Existing home occupations lawfully existing on the effective date of this Ordinance may continue as non-conforming uses. Any existing home occupation that is discontinued for a period of more than thirty (30) days, or is in violation of the provisions, under which it was initially established, shall be brought into conformity with the provisions of this Ordinance.

**10-21-9: INSPECTION.** The City hereby reserves the right to inspect the premises in which the home occupation is being conducted to ensure compliance with the provisions of this Ordinance or any conditions additionally imposed.

## CHAPTER 21

### HOME OCCUPATIONS

#### SECTION:

- 10-21-1: Purpose
- 10-21-2: Application
- 10-21-3: Prohibited Home Occupation Uses
- 10-21-4: General Home Occupation Requirements
- 10-21-5: Permitted Home Occupation Requirements
- 10-21-6: Interim Use Home Occupation Requirements
- 10-21-7: Home Extended Businesses
- 10-21-8: Non-Conforming Uses
- 10-21-9: Inspection

**10-21-1: PURPOSE.** The purpose of this Ordinance is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety, and general welfare of the surrounding neighborhood. In addition, this Chapter is intended to provide a mechanism enabling the distinction between those home occupations having minimal or no secondary impact ("Permitted Home Occupations") and those which have potential for adverse effects upon surrounding areas ("Interim Home Occupations" or "Home Extended Businesses"). (Ord 148, SS, 11-21-2010)

**10-21-2: APPLICATION.** Subject to the non-conforming use provision of this Ordinance, all home occupations shall be further defined to distinguish permitted home occupations from interim home occupations and home extended businesses. Accordingly, all home occupations which satisfy the permitted home occupation criteria shall be considered a permitted accessory use in all residential zoning districts. Home occupations which are not specifically prohibited and fail to satisfy the permitted home occupation criteria shall require an interim use permit, as provided for in this Chapter. (Ord 148, SS, 11-21-2010)

**10-21-3: PROHIBITED HOME OCCUPATION USES.** The following uses have a tendency to be too intense for or potentially disruptive for home occupations and thereby adversely affect residential areas. The following uses are specifically prohibited as home occupations:

- A. Repair services which produce objectionable light, glare, noise or vibration including, but not limited to, auto repair, appliance repair and small engine repair, except as provided for in Section 10-21-7-I. (Ord 148, SS, 11-21-2010)

- B. Teaching or instruction which customarily consists of more than two (2) non-family pupils at a time.
- C. Manufacturing.

**10-21-4: GENERAL HOME OCCUPATION REQUIREMENTS.** The following requirements shall apply to all home occupations (both permitted and interim):

- A. No home occupation shall produce light, glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
- B. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- C. The home occupation shall be clearly incidental and secondary to the residential use of the premises, shall not change the residential character thereof, and shall not result in an incompatibility or disturbance to surrounding residential uses.
- D. No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and State fire and police recommendations.
- E. There shall be no exterior storage of equipment or materials used in the home occupation, except that personal automobiles used in the home occupation may be parked on the site, provided the parking is in conformance with all outdoor storage and parking requirements found in Sections 10-16-15 and 10-19. (Ord 148, SS, 11-21-2010)
- F. The home occupation shall meet all applicable building and fire codes.
- G. No home occupation shall be conducted between the hours of ten o'clock in the evening (10:00 PM) and seven o'clock in the morning (7:00 AM) in a manner where business activity is detectable outside of the residence. (Ord 148, SS, 11-21-2010)
- H. All home occupations shall comply with the provisions of City Nuisance Ordinances, including noise, outdoor storage, parking, and other such standards. (Ord 148, SS, 11-21-2010)

**10-21-5: PERMITTED HOME OCCUPATION REQUIREMENTS.** In addition to the requirements of Section 10-21-4 of this Ordinance, the following additional requirements shall apply to all permitted home occupations:

- A. There shall be no exterior display or signs which are visible from outside the building.
- B. No person other than those who customarily reside on the premises shall be employed.
- C. The operation of any wholesale or retail business shall not be permitted unless:
  - 1. It is conducted entirely by telephone, mail or electronic medium;
  - 2. The merchandise is stored elsewhere than on premises;
  - 3. The business operation does not include the sale of equipment or delivery of merchandise to the premises;
  - 4. Customers do not come to the home for any part of the transaction.
- D. The home occupation shall be conducted entirely within the principal dwelling and shall not be conducted in attached garages or accessory buildings. No more than twenty-five (25) percent of the gross floor area of the principal dwelling shall be used for the home occupation.
- E. The home occupation shall not create a parking demand of more than two (2) vehicles at one time.
- F. The home occupation shall not create a demand for on-street parking. All parking associated with the home occupation shall be off-street and shall be accommodated within the garage and the existing driveway area.
- G. In no case shall the home occupation create a need for an additional driveway access to the property.

**10-21-6: INTERIM USE HOME OCCUPATIONS REQUIREMENTS.** Home occupations which are not specifically prohibited by Section 10-21-3 of this Ordinance and fail to satisfy the permitted home occupation criteria of Section 10-21-4 of this Ordinance shall require an interim use permit and shall comply with the following requirements:

- A. The conditions of Section 4 of this Ordinance shall be satisfied.
- B. No more than one (1) person other than those who customarily reside on the premises shall be employed.
- C. Teaching or instruction activities shall not consist of more than two (2) non-family pupils at a time.

- D. All activity on the premises associated with the home occupation shall not cause any adverse changes to the residential character of the neighborhood.
- E. Any exterior changes necessary to conduct the home occupation are sufficiently screened, properly designed, or separated by distance so as to be consistent with the existing adjacent residential uses and compatible with the residential occupancy.
- F. Any interior changes necessary to conduct the home occupation shall comply with all building, electrical, mechanical and fire codes governing the use of the use in a residential occupancy.
- G. Traffic generated by the home occupation shall involve vehicles types and volumes that typically associated with single family residences and that such traffic does not constitute a nuisance or safety hazard.
- H. Signs associated with the interim home occupation shall be in accordance with Chapter 42 of this Ordinance.
- I. No more than twenty-five (25) percent of the gross floor area of the principal dwelling shall be used for the home occupation.
- J. An attached accessory structure may be used for the home occupation provided the use does not occupy required parking. In all cases there shall be space sufficient for the parking of a minimum of two vehicles in the attached accessory structure. (Ord 148, SS, 11-21-2010)
- K. Any wholesale or retail sales must be incidental to the home occupation or low volume sales restricted by appointment. (Ord 148, SS, 11-21-2010)

**10-21-7: HOME EXTENDED BUSINESSES.** (Ord 148, SS, 11-21-2010) Home extended businesses are home occupations that may be conducted within a detached accessory building. Home extended businesses are allowed as an interim use in the A-1, A-2, A-3, RR, and ML-PUD Districts provided:

- A. The conditions of Section 10-21-4 of this ordinance shall be satisfied.
- B. No more than two (2) persons other than those who customarily reside on the premises shall be employed.
- C. All activity on the premises associated with the home extended business shall not cause any adverse changes to the residential character of the neighborhood.
- D. Any exterior changes necessary to conduct the home extended business are sufficiently screened, properly designed, or separated by distance so as to be

consistent with the existing adjacent residential uses and compatible with the residential occupancy.

- E. Any interior changes necessary to conduct the home extended business shall comply with all building, electrical, mechanical and fire codes governing the use of the use in a residential occupancy.
- F. Traffic generated by the home extended business shall involve vehicles types and volumes that typically associated with single family residences and that such traffic does not constitute a nuisance or safety hazard.
- G. Signs associated with the interim home occupation shall be in accordance with Chapter 42 of this Ordinance.
- H. On parcels greater than 5 (five) acres in size, small engine and appliance repair may be conducted, provided the applicant can sufficiently limit noise and other potential disturbances, and the detached accessory building is in a location that will not allow for likely disturbances to neighboring residences.
- I. Any wholesale or retail sales must be incidental to the home occupation or low volume sales restricted by appointment.

**10-21-8: NON-CONFORMING USES:** Existing home occupations lawfully existing on the effective date of this Ordinance may continue as non-conforming uses. Any existing home occupation that is discontinued for a period of more than thirty (30) days, or is in violation of the provisions, under which it was initially established, shall be brought into conformity with the provisions of this Ordinance.

**10-21-9: INSPECTION.** The City hereby reserves the right to inspect the premises in which the home occupation is being conducted to ensure compliance with the provisions of this Ordinance or any conditions additionally imposed.

## SECTION 23

### SIGNS

#### SECTION:

- 10-23-1: Purpose and Intent
- 10-23-2: Exempt Signs
- 10-23-3: Prohibited Signs
- 10-23-4: Signs Not Requiring Permits
- 10-23-5: General Requirements
- 10-23-6: Maintenance of Signs
- 10-23-7: Non-Conforming Signs
- 10-23-8: District Regulations
- 10-23-9: Administration
- 10-23-10: Severability

**10-23-1: PURPOSE AND INTENT:** The purpose of this chapter is to protect and promote the general welfare, health, safety and order within the City through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as visual communicative media to persons situated within or upon public right-of-way or private properties. The provisions of this Section are intended to encourage creativity, a reasonable degree of freedom of choice, an opportunity for effective communication, and a sense of concern for the visual amenities on the part of those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this Section; while at the same time assuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of such communicative facilities.

**10-23-2: EXEMPT SIGNS:** The following signs are exempt from the requirements of this Section:

- A. Memorial plaques, building identification signs, and building cornerstones when cut or carved into a masonry surface or made an integral part of the building or structure.
- B. Directional, warning, or informational signs authorized by federal, state, or municipal governments with proper jurisdiction.
- C. Official notices authorized by a court, public body, or public safety official.



**10-23-3: PROHIBITED SIGNS:** The following signs are prohibited within the City:

- A. Sign attached to any tree, public sign or utility poles.
- B. Sign constructed of a material not of a permanent nature.
- C. Above roof signs. Projecting signs shall project no further than two (2) feet from the wall to which they are anchored. No sign, or portion thereof, shall project over public property.
- D. Sign which by reason of position, movement, shape, illumination or color would constitute a traffic hazard to oncoming traffic.
- E. Sign noticeably moving as a result of normal wind pressure.
- F. Sign containing obscene language or graphics.
- G. Abandoned signs which no longer identify or advertise a bona fide business, service, product, or activity or for which a legal owner can be found.
- H. Banners, pennants, festoons, and search-lights except as a permitted temporary special event sign and as identified in 10-23-5-H.
- I. Signs imitating or resembling official traffic or governmental signs or signage.
- J. Signs placed on vehicles or trailers which are parked or placed for the primary purpose of displaying said sign except for portable signs or lettering on buses, taxis, or vehicles operating during the normal course of business.
- K. Any sign placed within thirty (30) feet of any intersection that may obstruct motorist or pedestrian visibility.
- L. Signs which blink, flash, or are animated.

**10-23-4: SIGNS NOT REQUIRING PERMITS:** The following signs are exempt from permit requirements but must otherwise be in conformance with all requirements of this Section.

- A. **Construction Signs:** A non-illuminated sign not exceeding thirty-two (32) square feet in the R-1 and R-2 District and sixty-four (64) square feet in area in all other districts may be placed on the site where an open building permit has been issued. The sign shall be removed within two (2) years of the date of issuance of the building permit or when the building permit has been finalled or expired, whichever is sooner.

- B. **Directional Signs, On-Site:** On site-directional signs, not exceeding two (2) square feet in area, intended to facilitate the movement of pedestrians and vehicles within the site, identify restrooms, waste receptacles, addresses, door bells, mailboxes, or building entrances upon which signs are located. Such signs shall be limited to two (2) per site in R-1 and R-2 Districts and four (4) per site for all other districts.
- C. **Identification Signs:** Signs in all non-residential districts which identify the business, owner, manager, or resident providing the sign does not exceed four (4) square feet in area and is attached to a wall or placed in a window. Such a sign may be placed on a residential property with a permitted home occupation.
- D. **Non-Commercial Speech:** Notwithstanding any other provisions of this Sign Ordinance, all signs of any size containing non-commercial speech may be posted from June 25 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.
- E. **Private Sale or Event Signs:** One sign not to exceed four (4) square feet in area may be placed on the site of a rummage sale or similar event. Any sign shall be removed at the termination of the sale or similar event.
- F. **Individual Property Sale, Lease, or Rental Signs:** Any property that is currently for sale or rent may place one sign per street frontage. Such signs must be removed within ten (10) days after the sale or rental of the property. Such signs shall not exceed six (6) square feet in area in all residential districts and thirty-two (32) square feet in area in all other districts.
- G. **"No Trespassing" and "No Hunting" Signs:** No trespassing and no hunting signs and similar warning or restrictive signs, not to exceed two (2) square feet in area, may be placed upon private property by the owner.

**10-23-5: GENERAL REQUIREMENTS:** All signs within the City shall be subject to the following standards:

- A. **Compliance with Building and Electrical Codes:** All signs shall be pursuant to the requirements of the State Building Code.
- B. **Anchorage Requirements:**
  - 1. No sign shall be suspended by non-rigid attachments that will allow the sign to swing in a wind.

2. All freestanding signs shall have self-supporting structures permanently attached to concrete foundations.
3. All portable signs on display shall be braced or secured to prevent motion.
4. No sign shall be attached to hang from any building until all necessary wall attachments have been approved by the Building Official.

**C. Sign Wind Resistance Requirements:**

1. Solid signs, other than wall signs, shall be designed to withstand a wind load of seventeen (17) pounds per square foot on any face, having a height less than thirty (30) feet and to withstand a wind load of twenty-two (22) pounds per square foot on any surface having a height in excess of thirty (30) feet in height.
2. Skeleton signs, other than wall signs, shall be designed to withstand a wind load of seventeen (17) pounds per square foot on the total face area of the letters and all other sign surfaces less than thirty (30) feet in height and to withstand a wind load of twenty-two (22) pounds per square foot on all portions in excess of thirty (30) feet in height.

**D. Additional Sign Construction and Placement Requirements:**

1. No sign shall be erected, constructed or maintained so as to obstruct any fire escape, required exit, window or door opening used as a means of egress.
2. No sign shall be attached in any form, shape, or manner which will interfere with any opening required for ventilation, except that signs may be erected in front of and may cover transom windows when not in violation of the provisions of the current Building or Fire Codes.
3. Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with present Electrical Code specifications.
4. Lighting shall be directed away from road rights-of-way and adjacent dwellings.
5. Freestanding signs in all districts shall have a minimum setback of ten (10) feet from any public right-of-way measured to any portion of the sign, and a minimum clearance of ten (10) feet over any vehicular or pedestrian use area. No freestanding sign shall be located within twenty-five (25) feet of any intersection of street right-of-way lines and/or driveway entrances.

6. Except as otherwise permitted by this ordinance, no signs other than governmental signs shall be erected or temporarily placed within any right-of-way or upon any public lands or easements.
7. When a free standing sign or sign structure is constructed so that the sign faces are not back to back, the angle shall not exceed ten degrees. If the angle is greater than ten (10) degrees, the total area of both sides added together shall not exceed the maximum allowable sign area for that district.

**E. Temporary Signs:**

1. An on-site temporary, portable sign may be used for a period of time not to exceed one hundred eighty (180) days per calendar year per parcel of record in the commercial and industrial zoning districts provided:
  - a. Such temporary, portable signs shall not exceed forty-eight (48) square feet in area and nine (9) feet in height and shall not be placed closer than ten (10) feet from any street right-of-way or property line. (Ord. 202, SS, 07/06/15)
  - b. Any temporary, portable sign shall require a permit issued by the City to the property owner specifying the duration of time to be displayed.
  - c. No temporary, portable sign shall occupy required parking spaces.
  - d. In the case of multi-tenant structures, one sign may be placed every one hundred fifty (150) feet of street frontage rather than one sign per parcel. Each one hundred fifty (150) feet is granted one hundred eighty (180) days for display. (Ord. 202, SS, 07/06/15)
2. One A-frame or sandwich board sign per frontage per business may be allowed in the business districts without a permit and without using the time period allotted for temporary, portable signs provided:
  - a. The sign is placed within fifteen (15) feet of the entrance of the business.
  - b. The sign shall be placed on private property and may be placed on a private sidewalk provided there is sufficient clearance for pedestrians.
  - c. The sign may not obstruct safety, visibility, or traffic.

- d. The sign shall not be greater than forty-five (45) inches in height, twenty-seven (27) inches in width, or thirty-one (31) inches in depth
- e. The sign shall be only displayed during business hours.

(Ord. 202, SS, 07/06/15)

- F. **Electronic Message Board Signs.** Signs displaying electronic, scrolling text-based messages may be permitted in commercial and industrial districts provided that the electronic message board component of any sign is no greater than forty (40) square feet in area.
- G. **Business and Industrial Window Signs.** Window signs are permitted in the industrial and business districts provided each sign does not occupy more than seventy-five (75) percent of the window area.
- H. **Banner signs.** Banner signs and similar products attached to a building shall be allowed without a permit as follows:
  - 1. Signage shall be well secured to prevent it from blowing in the wind.
  - 2. No more than two (2) signs shall be allowed at any one time.
  - 3. Each sign shall be less than one hundred (100) square feet in area.
  - 4. Such signage shall be only allowed in the industrial and business districts.
- I. **Ground Banner Signs.** Banner signs may be allowed on the ground up to forty-eight (48) square feet in area but each ground banner sign shall count towards one of the two allowed building banner signs and shall conform to all standards set forth for portable temporary signs in 10-23-5:E-1 and shall require a permit.

**10-23-6: MAINTENANCE OF SIGNS:** All signs shall be maintained by the owner in a safe condition. A sign shall be repainted whenever its paint begins to fade, chip, or discolor.

**10-23-7: NON-CONFORMING SIGNS:** Any sign legally existing on the effective date of this Section which does not conform to the requirements set forth in this Section shall become a non-conforming sign. No non-conforming sign shall be enlarged or altered in such a fashion that increases its non-conformity. Non-conforming signs shall be subject to the requirements of Section 10-15 of the Zoning Ordinance.

**10-23-8: DISTRICT REGULATIONS:** The following signs are permitted in their respective Zoning District:

**A. A-1, A-2, and A-3 Districts:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height. The area identification sign shall be placed on the same premises as the development which it identifies.
3. For legally established non-residential uses, one (1) freestanding sign not to exceed thirty-two (32) square feet and six (6) feet in height, shall be permitted. One (1) wall business sign, not to exceed twenty (20) square feet, shall also be permitted. The freestanding sign and wall business signage shall be placed on the same premises as the business in which it identifies.
4. Signage requirements for Home Occupations shall be as follows: One (1) freestanding sign not to exceed twenty (20) square feet in sign area and six (6) feet in height, and one (1) business wall sign not to exceed twenty (20) square feet in sign area.

**B. RR and ML-PUD Districts:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height. The area identification sign shall be placed on the same premises as the development which it identifies.
3. For legally established non-residential uses, one (1) freestanding sign not to exceed thirty-two (32) square feet and six (6) feet in height, shall be permitted. One (1) wall business sign, not to exceed twenty (20) square feet, shall also be permitted. The freestanding sign and wall business signage shall be placed on the same premises as the business in which it identifies.
4. Signage requirements for Home Occupations shall be as follows: One (1) freestanding sign not to exceed twenty (20) square feet in sign area and six (6) feet height, and one (1) business wall sign not to exceed twenty (2) square feet in sign area.

**C. R-1 and R-2 Districts:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height. The area identification sign shall be placed on the same premises as the development which it identifies.
3. For legally established non-residential uses, one business wall sign, not to exceed four (4) square feet, shall be permitted.
4. For legally established institutional uses, such as religious institutions, nursing homes, medical establishments and schools, one (1) freestanding sign per street frontage identifying said institution or institutional complex shall be permitted. The freestanding sign shall not exceed sixty (60) square feet in sign area and ten (10) feet in height. One business wall sign, not to exceed twenty (20) square feet in sign area, shall be permitted for each structure.
5. Signage requirements for home occupations shall be as follows: one (1) freestanding sign not to exceed four (4) square feet in sign area and six (6) feet in height, and one (1) business wall sign not to exceed four (4) square feet in sign area.

**D. R-3 and R-4 Districts:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per frontage with access to a neighborhood, subdivision, development or multi-family complex, not to exceed thirty-two (32) square feet in the sign area and six (6) feet in height, shall be permitted. The area identification sign shall be placed on the same premises as the development which it identifies.
3. For legally established non-residential uses, one business wall sign, not to exceed four (4) square feet in sign area, shall be permitted.
4. For legally established institutional uses, such as religious institutions, nursing homes, medical establishments, and schools, one (1) freestanding sign per street frontage identifying said institution or institutional complex shall be permitted. The freestanding sign shall not exceed sixty (60) square feet in sign area and ten (10) feet in height. One business wall sign, not to exceed twenty (2) square feet in sign area, shall be permitted for each structure.

5. Signage requirements for home occupations shall be as follows: one (1) freestanding sign not to exceed four (4) square feet in sign area and one (1) business wall sign not to exceed four (4) square feet in sign area.

**E. PUD District:**

1. All signs not requiring permits as set forth in this Section.
2. Signage requirements shall be established at the time the PUD is approved by the City. All applicants shall submit a signage plan for the proposed development.

**F. B-1 District:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height shall be permitted. The area identification sign shall be placed on the same premises as the development which it identifies.
3. One (1) freestanding sign per lot is permitted. The total area of the freestanding sign shall not exceed sixty-four (64) square feet for lots with a lot width of one hundred (100) feet or more than thirty-six (36) square feet for lots with a lot width of less than one hundred (100) feet. The maximum height of a freestanding sign shall be twenty (20) feet.
4. For legally established institutional uses, one (1) freestanding sign per street frontage identifying said institution or institutional complex shall be permitted. The freestanding sign shall not exceed sixty (60) square feet in sign area and ten (10) feet in height.
5. One business wall sign shall be permitted according to the following: The total area of all wall signs on any wall of a building shall not exceed fifteen (15) percent of the wall area of that wall when said wall area does not exceed five hundred (500) square feet. When said surface area exceeds five hundred (500) square feet, provided that the maximum sign area for any wall sign shall be three hundred (300) square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies.

**G. B-2 and B-3 Districts:**

1. All signs not requiring permits as set forth in this Section.



2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height, shall be permitted. The area identification sign shall be placed on the same premises as the development which it identifies.
3. One (1) freestanding sign per street frontage is permitted. The total area of a freestanding sign for a building having one street frontage shall not exceed eighty (80) square feet. Where a building site has two (2) or more street frontages, only one (1) freestanding sign of the above size shall be permitted. Each permitted freestanding sign in excess of one (1), shall have a sign area not to exceed thirty-six (36) square feet. The maximum height of a freestanding sign shall be twenty-five (25) feet.
4. For legally established institutional uses, one (1) freestanding sign per street frontage identifying said institution or institutional complex shall be permitted. The freestanding sign shall not exceed sixty (60) square feet in sign area and ten (10) feet in height.
5. One (1) business wall sign shall be permitted according to the following: The total area of all wall signs on any wall of a building shall not exceed fifteen (15) percent of the wall area of that wall when said wall area does not exceed five hundred (500) square feet. When said surface area exceeds five hundred (500) square feet, then the total area of such wall sign shall not exceed seventy-five (75) square feet plus five (5) percent of the wall area in excess of five hundred (500) square feet, provided that the maximum sign area for any wall sign shall be three hundred (300) square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies.

**H. I-1 and I-2 Districts:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height. The area identification sign shall be placed on the same premises as the development which it identifies.
3. One (1) freestanding sign per street frontage is permitted. The total area of a freestanding sign for a building having one (1) street frontage shall not exceed eighty (80) square feet. Where a building site has two (2) or more street frontages, only one (1) freestanding sign of the above size shall be permitted. Each permitted freestanding sign in excess of one, shall have a sign area not to exceed thirty-six (36) square feet. The maximum height of a freestanding sign shall be twenty-five (25) feet.

4. One (1) business wall sign shall be permitted according to the following: The total area of all signs on any wall of a building shall not exceed fifteen (15) percent of the wall area of that wall when said wall area does not exceed five hundred (500) square feet. When said surface area exceeds five hundred (500) square feet, then the total area of such wall sign shall not exceed seventy-five (75) square feet plus five (5) percent of the wall area in excess of five hundred (500) square feet, provided that the maximum sign area for any wall sign shall be three hundred (300) square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies.

**I. I-3 District:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height, shall be permitted. The area identification sign shall be placed on the same premises as the development which it identifies.
3. One (1) freestanding sign per street frontage is permitted. The total area of a freestanding sign for a building having one street frontage shall not exceed eighty (80) square feet. Where a building site has two or more street frontages, only one freestanding sign of the above size shall be permitted. Each permitted freestanding sign in excess of one shall have a sign area not to exceed thirty-six (36) square feet. The maximum height of a freestanding sign shall be twenty five (25) feet.
4. One (1) business wall sign shall be permitted according to the following: The total area of all signs on any wall of a building shall not exceed fifteen (15) percent of the wall area of that wall when said wall area does not exceed five hundred (500) square feet. When said surface area exceeds five hundred (500) square feet, then the total area of such wall sign shall not exceed seventy-five (75) square feet plus five (5) percent of the wall area in excess of five hundred (500) square feet, provided that the maximum sign area for any wall sign shall be three hundred (300) square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies.

**J. Conservancy District:**

1. All signs not requiring permits as set forth in this Section.

2. One (1) permanent identification sign, not to exceed fifty (50) square feet in sign area and six (6) feet in height shall be permitted per frontage with access to the site. The identification sign shall be placed on the same premises as the use in which it identifies.

#### **10-23-9: ADMINISTRATION:**

A. **Application Process:** An application for a sign permit shall be made upon forms to be provided by the City. Said form is to be completed and returned to the City and shall include the following information:

1. The name and address of the applicant: location of the building, structure or lot on which the sign is to be erected, the position of the sign in relation to nearby buildings or structures, the name of the person that will be erecting the sign, and the written consent of the owner of the land if different from the applicant.
2. A site plan including a drawing of the plans, specifications, and method of construction or attachment to a structure or the ground.
3. A copy of the stress sheets and calculations, showing that the sign is designed to withstand the required wind load.
4. A sketch plan showing the signs size, manner of construction, type of sign, construction materials, other signs on the site, and any other information as requested by the City.
5. Signs that meet the requirements of this Section may be issued by City Staff. Applications for signs that do not meet the requirements of this Section shall be reviewed by the Planning Commission and the City Council According to the procedures set forth in this Section.

B. **Sign Permit Fees:** Every applicant shall pay a fee for each sign regulated by this Section, before being granted a permit. Permit fees shall be subject to the following requirements:

1. The Council shall establish the permit fees on the City's fee schedule.
2. Any substantial alteration or relocation of a sign shall constitute a new sign, requiring an additional permit fee.
3. A double fee shall be charged if a sign is erected without first obtaining a permit for such sign. The Council may also require a sign to be removed, altered, or relocated, at the owner's expense, if placed prior to securing the required permit. If the owner fails to remove or alter the sign so as to

comply with the provisions set forth in the Section, within ten (10) calendar days following receipt of a letter from the City stating the violations, such signs may be removed by the City, the cost incident thereto being levied as a special assessment against the property upon which the sign is located.

- C. **Inspections:** All sign installations for which a permit is required, shall be subject to inspection and acceptance by the City.
- D. **Revocation of Permit:** The City may revoke a sign permit upon failure of the holder thereof to comply with the provisions of this Section. Any party aggrieved by such revocation may appeal the action to the Council, within ten (10) calendar days after the revocation.
- E. **Expiration of Permit:** The permit shall expire if the sign is not erected within one hundred eighty (180) days after issuance of said permit. No permit fees collected for the sign shall be refunded to the applicant.
- F. **Removal of Signs by the City:** The City may cause the removal of any illegal sign or any sign not properly maintained in cases of emergency, or after failure to timely comply with written orders for removal or repair. After removal or demolition of a sign, the following conditions shall be in effect:
  - 1. Written notice shall be mailed to the sign owner and owner of the property where the sign was located stating the nature of the work and the date on which it was performed. The City shall require payment of the costs associated with the removal, with an additional fifty (50) percent added for inspection, administrative and incidental costs.
  - 2. If the amount specified in the notice is not paid within thirty (30) days after mailing of the notice, it shall become a lien against the property where the sign was located and shall be certified as an assessment against the property together with ten (10) percent interest for collection in the same manner as the real estate taxes.
  - 3. The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the City, as in the case of a leased sign.
  - 4. For purposes of removal, a sign shall be deemed to include all sign embellishments and structure designed specifically to support the sign.
  - 5. In the case of an emergency, the City may cause the immediate removal of a dangerous or defective sign without notice. Signs removed in this manner shall present a hazard to the public safety as defined by the State Building Code.

**10-23-10: SEVERABILITY:** If any section, subsection, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have adopted the sign ordinance in each section, subsection, sentence, or phase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

(Ord. 156 Adopted 7-5-11; Effective 1-1-12)

## CHAPTER 25

### ESSENTIAL SERVICES

#### SECTION:

- 10-25-1: Purpose
- 10-25-2: Administrative Permit Required
- 10-25-3: Conditional Use Permit Required
- 10-25-4: Performance Standards
- 10-25-5: Exceptions

**10-25-1: PURPOSE:** The purpose of this Ordinance is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the health, safety and welfare of the City will not be adversely affected. Essential services shall also be installed in recognition of existing and projected demands for such services.

#### **10-25-2: ADMINISTRATIVE PERMIT REQUIRED:**

- A. All telephone lines, pipelines and structures for local distribution, underground electric transmission lines, and overhead electric transmission lines and substations less than 35kV, when installed in any public right-of-way in any zoning district shall require a right-of-way permit subject to review and approval of the City Engineer.
- B. All telephone lines, pipelines and structures for local distribution, underground electric transmission lines, and overhead electric transmission lines less than 35kV, which are intended to serve more than one (1) parcel and are proposed to be installed at locations other than in public right-of-way is subject to approval by the City Engineer. Approval by the City Engineer shall be based upon the information furnished in the following procedural requirements:
  - 1. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator all maps and other pertinent information as deemed necessary for the City Engineer to review the proposed project.
  - 2. The Zoning Administrator shall transmit the map and accompanying information to the City Engineer for review and approval regarding the project's relationship to the Comprehensive Plan and/or ordinances and parts thereof.

3. The City Engineer shall report in writing to the Zoning Administrator its findings as to the compliance of the proposed project with the Comprehensive Plan and ordinances of the City.
4. In considering applications for the placement of essential services, as regulated in this Chapter, the City Engineer shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
5. Upon receiving the approval of the City Engineer, the Zoning Administrator shall issue an administrative permit for the installation and operation of the applicant's essential services. If the Engineer's report recommends the denial of said permit causing the Zoning Administrator to deny its issuance, the applicant may appeal said decision to the Board of Adjustment and Appeals under the rules and procedures as set forth in Chapter 10-3-6 of this Ordinance.

**10-25-3: CONDITIONAL USE PERMIT REQUIRED:** All transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 35kV and up to 100kV shall be a conditional use in all districts subject to the procedural requirements and standards stipulated in this Chapter and Chapter 6 of this Ordinance.

**10-25-4: PERFORMANCE STANDARDS:** Essential services shall be subject to the following:

- A. All distribution lines shall be underground.
- B. Outdoor storage of materials or equipment shall be prohibited.
- C. All poles and similar type structures shall be placed in the public right-of-way or utility easement unless approved as an interim use permit subject to Chapter 7 of this Ordinance.
- D. All facilities shall be landscaped and screened to the extent practical and applicable pursuant to Chapter 20 of this Ordinance.
- E. The size and number of accessory buildings are to be minimized to the extent possible and are to house only equipment directly related to the operation of the facility in question.
- F. The architectural appearance of all structures and buildings shall be in harmony with the primary uses within the vicinity of the site.

**10-25-5: EXCEPTIONS:** This Chapter shall not apply to radio and wireless communication systems and facilities. Regulation of these uses and activities are governed by Chapter 22 of this Ordinance.



## CHAPTER 27

### ADULT USES

#### SECTION:

10-27-1: Purpose

10-27-2: Compliance Required

**10-27-1: PURPOSE:** The purpose of this Chapter is to ensure consistency with and conformance to the provisions established by Section 6-11 of the City Code for all adult uses allowed within the respective zoning districts.

**10-27-2: COMPLIANCE REQUIRED:** All adult uses shall be established in conformance with the provisions of Section 6-11 of the City Code for the opportunity to establish, as well as control, adult uses within the City of St. Francis.

## CHAPTER 28

### WIND ENERGY CONVERSION SYSTEMS (WECS)

#### SECTION:

- 10-28-1: Purpose
- 10-28-2: Application
- 10-28-3: Declaration of Conditions
- 10-28-4: Site Plan Drawing
- 10-28-5: Compliance with State Building Code
- 10-28-6: Compliance with National Electrical Code
- 10-28-7: Manufacturer Warranty
- 10-28-8: Design Standards
- 10-28-9: Ornamental Wind Devices
- 10-28-10: Building Permit
- 10-28-11: Inspection
- 10-28-12: Abandonment

**10-28-1: PURPOSE:** This ordinance is established to regulate the installation and operation of Wind Energy Conversion Systems within the City not otherwise subject to regulation and oversight by the State of Minnesota. No person shall construct or operate a wind energy conversion system (WECS) without having fully complied with the provisions of this section.

**10-28-2: APPLICATION:** Wind conversion systems may be allowed as an accessory use by a conditional use permit within specified zoning districts of the City, subject to the regulations and requirements of this Section, provided the property upon which the system is at least five (5) acres in size.

**10-28-3: DECLARATION OF CONDITIONS:** The City Council may impose such conditions on the granting of SWECS conditional use permit as may be necessary to carry out the purpose and provisions of this Section and to maintain compatibility.

**10-28-4: SITE PLAN DRAWING:** All applications for WECS conditional use permit shall be accompanied by a detailed site plan drawn to scale and dimensioned, displaying the following information:

- A. Lot lines and dimensions.
- B. A description of the project, including:

1. Number;
  2. Type;
  3. Name plate generating capacity;
  4. Tower Height;
  5. Rotor diameter; and
  6. Total Height.
- C. Location and height of all buildings, structures, above ground utilities, and trees on the lot, including both existing and proposed structures and guy wires anchors.
- D. Locations and height of all adjacent buildings, structures, above ground utilities and trees located within three hundred (350) feet of the exterior boundaries of the property in question.
- E. Existing and proposed setbacks of all structures located on the property in question.
- F. Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to structures on adjacent lots.

**10-28-5: COMPLIANCE WITH STATE BUILDING CODE:** Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along with the engineering data and calculations to demonstrate compliance with the structural design provisions of the State Building Code especially with regards to wind and icing loads. Drawings and engineering calculations shall be certified by a registered engineer.

**10-28-6: COMPLIANCE WITH NATIONAL ELECTRICAL CODE:** WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City.

**10-28-7: MANUFACTURER WARRANTY:** The applicant shall provide documentation or other evidence from the dealer or manufacturer that the WECS has been successfully operated in atmospheric conditions similar to the conditions within the City. The WECS shall be warranted against any system failures reasonably expected in severe weather operation conditions.

**10-28-8: DESIGN STANDARDS:**

- A. **Height:** The permitted maximum height of a WECS shall be determined in one of two ways. In determining the height of the WECS, the total height of the

system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor.

1. A ratio of one (1) foot to one (1.5) foot between the distance of the closest property line to the base of SWECS to the height of the system.
2. A maximum system height of one hundred (100) feet.

The shortest height of the two above mentioned methods shall be used in determining the maximum allowable height of a SWECS system. The height of a WECS must also comply with FAA Regulation Part 77 "Objects Affecting Navigable Air Space" and/or MnDOT Rule 14, MCAR 1.3015 "Criteria for Determining Obstruction to Air Navigation."

**B. Setbacks:**

1. Property Lines. One and one-half (1.5) times the total height.
2. Principle Structure: One and one-half (1.5) times the total height.
3. Other structures: One and one-half (1.5) times the total height.
4. Neighboring Dwellings: Three hundred (300) feet.
5. Rights of Way: One and one-half (1.5) times the total height.
6. Other existing WECS = To be considered, based upon:
  - a. Relative size of the existing and proposed WECS;
  - b. Alignment of the WECS relative to the predominant winds;
  - c. Topography;
  - d. Property line setback of existing WECS; and
  - e. Other setbacks required.

No WEC may be erected in any required yard (except a rear yard) or within a public or private utility and drainage easement.

- C. **Rotor Size:** All WECS rotors shall not have rotor dimensions greater than twenty-six (26) feet in diameter.
- D. **Rotor Clearance:** Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure or tree within a two hundred (200) foot radius.
- E. **Rotor Design:** The blade design and materials are to be designed and constructed to ensure safe operation in an urban/rural area.

- F. **Rotor Safety:** Each WECS shall be equipped with both a manual and automatic braking device capable of stopping WECS operation in high wind (forty [40] MPH or greater) or in conditions of imbalance.
- G. **Lightning Protection:** Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.
- H. **Component Compatibility:** The Wind turbine and wind turbine tower are to be designed and constructed to be compatible.
- I. **Tower Access:** To prevent unauthorized climbing, WECS towers must comply with one of the following provision:
  - 1. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
  - 2. A locked anti-climb device shall be installed on the tower.
  - 3. Tower capable of being climbed shall be enclosed by a locked, protective fence at least eight (8) feet high.
- J. **Signs:** WECS shall have one sign, not to exceed two (2) square feet at the base of the tower and said sign shall contain the following information:
  - 1. Warning high voltage.
  - 2. Manufacturer's name.
  - 3. Emergency phone number.
  - 4. Emergency shutdown procedures.
- K. **Lighting:** Unless otherwise required by state or federal regulation, no lighting or illumination of a WECS shall be permitted.
- L. **Electromagnetic Interference:** WECS shall be designed and constructed so as not to cause radio and television interference.
- M. **Noise Emissions:** All WECS shall comply with all applicable local, state, and federal regulations governing noise.
- N. **Utility Company Interconnection:** No WECS shall be interconnected with the local electrical utility company until the utility company and the City Engineer have commented upon such proposal. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the City.

- O. **Color and Finish:** All wind turbines and towers shall be white, grey, or another non-obtrusive color. Finishes shall be matte or non-reflective.
- P. **Electrical Wires:** All electrical wires installed as part of a WECS shall be buried whenever reasonably possible.
- Q. **Interference:** Steps shall be taken to minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals, caused by any WECS.
- R. **Overspeed Controls:** All WECS shall be equipped with a redundant braking system. This includes both aerodynamic (including variable pitch) overspeed controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode, whereby they are engaged in the case of load loss on the generator. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- S. **Fail Points:** All WECS shall have fail points so as to assure that the structure will collapse on the subject site and not extend to and jeopardize life or adjacent property.
- T. **Guy Wires:** If it is determined that guy wires or guy wire anchors are needed, guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements or required buffer yards and shall be set back a minimum of five (5) feet from all lot lines.
- U. **Lightning Protection:** All WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.

**10-28-9: ORNAMENTAL WIND DEVICES:** Ornamental wind devices that are not a WECS shall be exempt from the provisions of this Section and shall conform to other applicable provisions of this Chapter and the City Code including height.

**10-28-10: BUILDING PERMIT:** A building permit must be obtained prior to construction accompanied by the information required in this Ordinance. The building official must approve the plans before installation.

**10-28-11: INSPECTION:** The City hereby reserves the right upon issuing any WECS conditional use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall upon written notice from the City, take expeditious action to correct the situation.

**10-28-12: ABANDONMENT:** The use of a WECS shall be considered discontinued after one hundred eighty (180) days without energy production. All WECS and accessory facilities shall be removed within ninety (90) days of the discontinuation of use.

## CHAPTER 31

### EXCAVATIONS, GRADING, AND FILLING

#### SECTION:

- 10-31-1: Permit Required
- 10-31-2: Administrative Permit Exemptions
- 10-31-3: Application for Permit
- 10-31-4: Permit Review Criteria
- 10-31-5: Interim Use Permit Review
- 10-31-6: Administrative Permit Review
- 10-31-7: Security
- 10-31-8: Failure to Comply
- 10-31-9: Maintenance of Right-of-Way
- 10-31-10: Completion of Operations
- 10-31-11: Operations in Process

**10-31-1: PERMIT REQUIRED:** Any person who proposes to move the natural surface of the earth via excavation, grading, or filling on any property in the City shall apply for an interim use permit. The following are exempted:

- A. Excavation, filling, or grading in conjunction with an approved building, driveway, or other such permit.
- B. Excavation, filling, or grading in reliance on and in accordance with an approved development plan or grading plan.
- C. Excavation, filling, or grading by the State, County or City authorities in connection with construction or maintenance of roads or highways or utilities, provided such activity is conducted within the road or highway right-of-way or utility easement.
- D. Curb cuts, utility hook ups or street openings for which another permit is required from the City. Where another license or permit is not required or obtained, the excavation permit provided for in this Chapter shall be required.
- E. Excavation, filling, or grading of less than one hundred (100) cubic yards. Such activities, however, will be subject to an administrative permit which will address erosion control, traffic, streets, safety, noise, hours of operation, duration of activity, and environmental factors. If these factors cannot be adequately addressed, the permit may be denied.



- F. Excavation, filling, or grading for agricultural purposes greater than one hundred (100) cubic yards shall require an administrative permit. Less than one hundred (100) cubic yards shall not require a permit.
- G. Excavation, filling, or grading for extraction, mining, or gravel pit purposes shall follow the procedure in Section 10-32 of this Ordinance.

**10-31-2: ADMINISTRATIVE PERMIT EXEMPTIONS:** In cases above where excavation, filling, and grading are administratively permitted, the following are exempted:

- A. If the excavation, grading, or filling is conducted within the Urban Service Area, is less than fifteen (15) cubic yards in volume, and is the only such activity permitted in the last year.
- B. If the excavation, grading, or filling is conducted in the Rural Service Area, is less than forty-five (45) cubic yards in volume, and is the only land disturbance activity in the last year.

**10-31-3: APPLICATION FOR PERMIT:** Any person desiring a permit hereunder shall file an application on such forms as shall be provided by the Zoning Administrator. Such application shall be accompanied by a fee as set forth by City Council resolution and a large scale copy and reduced scale (11 by 17 inches) copy of detailed written and graphic materials fully explaining the proposed land filling or land excavation operation. The applicant shall submit four (4) copies for review. The scale of such materials shall be the minimum necessary to ensure legibility. The request shall be considered as being officially submitted and complete when the applicant has submitted and complied with all the following required information, as applicable and specified by the Zoning Administrator and/or City Engineer:

- A. **Application.** The application for a permit for excavation, filling, grading, and other such land disturbance activities shall require:
  - 1. Complete application on form provided by City.
  - 2. Written narrative describing the project including:
    - a. The purpose of the excavation, grading, and/or filling.
    - b. A description of the type and amount of material to be excavated, graded, or filled on the premises.
    - c. The highway, streets, or other public ways in the City upon which any material is to be hauled or carried.

- d. An estimate of the time required to complete the excavation, filling, or grading.
- 3. Site plan showing:
  - a. Areas where soil is to be stockpiled.
  - b. Location of silt fencing and other erosion control measures meeting the requirements of Section 10-16-4 of this Ordinance.
  - c. Property lines.
  - d. Current site topography.
  - e. Proposed site topography.
  - f. Public waters and wetlands on and within three hundred fifty (350) feet of the site.
  - g. Flood plains on site.
- 4. Stormwater Management Plan meeting the standards of Sections 10-93, Section 10-91 and Section 10-92 of this Ordinance, if applicable.
- 5. A written right-of-entry agreement stating the City and its officers have permission to enter the land for the purpose of determining compliance with all applicable conditions imposed in the permit.

**10-31-4: PERMIT REVIEW CRITERIA:** The permit shall be reviewed and approved if none of the following conditions are found to exist:

- A. Negative impact on an approved grading plan.
- B. Negative impact on neighboring properties or public drainage systems on or off-site.
- C. Fill brought on site is of an unsuitable quality.
- D. Excavation is for commercial activity/transport.
- E. Negative impact on public waters and wetlands.
- F. Hours of operation of the land disturbance activity fall outside of 7:00 AM to 7:00 PM on Monday-Friday.

- G. Inadequate erosion control.
- H. Failure to comply with Section 10-16-4, Section 10-91, Section 10-92, and/or Section 10-93 of this Ordinance.
- I. The proposed transport of materials is incompatible with the neighboring land uses.
- J. The proposed transport can be safely accommodated by the existing transportation infrastructure.

**10-31-5: INTERIM USE PERMIT REVIEW:** In cases where the permit requires an Interim Use Permit, the process in Section 10-7 of this Ordinance shall be followed to determine compliance with the criteria in Section 10-31-4 of this Ordinance.

**10-31-6: ADMINISTRATIVE PERMIT REVIEW:** In cases where an administrative permit is required, the following process shall be followed:

**A. Permit Review.**

- 1. The City Engineer and Zoning Administrator shall review the application and render a decision within sixty (60) days, unless otherwise extended.
- 2. No administrative permit shall be issued for activity to be conducted over a period of time longer than ninety (90) days.
- 3. If the permit is denied, the applicant shall be notified in writing.

**B. Permit Conditions.** All applicable provisions from this Ordinance shall be placed in effect at the discretion of the City Engineer. Failure to comply with all conditions shall result in the revocation of the Administrative Permit.

**10-31-7: SECURITY:** The City may require either the applicant or the owner or user of the property on which the excavation, filling, or grading is occurring to post a security in such form and sum as determined by the City Engineer. The amount of the security shall be sufficient to cover the City's extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill or excavated material. The amount of the security shall also be sufficient to insure compliance with all requirements of this Section, and the particular permit, and to pay the expense the City may incur as a result of the permit.

**10-31-8: FAILURE TO COMPLY:**

- A. The City may, for failure of any person to comply with any requirement made of them in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be certified as an assessment against the property whereon the landfill or excavation/grading operation is located, or the City may at its option proceed to collect such costs by an action against the person to whom such permit has been issued, and their superiors if a bond exists.
- B. In the event that excavation, filling, or grading operations requiring a permit are commenced prior to City review and approval, the City may require work stopped and all necessary applications filed and processed. In such cases, application fees shall be double the normal charge.
- C. Upon finding that an excavation, filling, or grading operation is being conducted out of compliance with this ordinance or any permit conditions, the City Engineer or Building Official may issue a stop work order. No such work shall be conducted while the stop work order is in effect.
- D. Upon issuance of a stop work order, completion of ordered corrective action, or taking corrective action, the City Engineer or Building Official may revoke any permit effective immediately. The City may cause to have the site brought into conformance with Section 10-31-10 of this Ordinance via the process identified in Section 10-31-8.A of this Ordinance.

**10-31-9: MAINTENANCE OF RIGHT OF WAY:** The City Engineer or City Building Official shall also have cause to take any action identified in Section 10-31-8 of this Ordinance for operations that are damaging any right-of-way or are being maintained in a manner that allows for sediment to be deposited in any right-of-way. Cost for any corrective action taken by the City shall be the responsibility of the permit holder or violator via an assessment against the property.

**10-31-10: COMPLETION OF OPERATION:** Upon completion of work, the permit holder shall notify the City Engineer or Zoning Administrator. At the completion of a excavation, filling, or grading operation, the premises shall be graded, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the City shall prescribe in the permit. The site shall also conform to such prerequisites as the City may determine with reference to storm water drainage runoff and storm water passage or flowage so that the landfill or excavation cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The Zoning Administrator and/or the City Engineer shall inspect the project

following completion to determine if the applicant has complied with the conditions required thereof.

**10-31-11: OPERATIONS IN PROCESS:** All excavation, filling, or grading operations for which a permit has previously been issued shall terminate such operations on the date specified by the permit.

## CHAPTER 32

### EXTRACTIONS, MINING, AND GRAVEL PITS

#### SECTION:

- 10-32-1: Purpose
- 10-32-2: Permit Required; Additional Permits
- 10-32-3: Application for Permit
- 10-32-4: Bond
- 10-32-5: Insurance Requirements
- 10-32-6: Annual Inspection
- 10-32-7: Permit Fees
- 10-32-8: Renewal of Permit
- 10-32-9: Authority to Impose Additional Requirements
- 10-32-10: Standards for Operation and Site
- 10-32-11: Rehabilitation and Restoration Standards

**10-32-1: PURPOSE:** The purpose of this Chapter is to provide for the economical availability of sand gravel, rock, soil and other materials vital to the continued growth of the region and the City, to establish reasonable and uniform limitations, safeguards and controls in the City for the future production of such minerals, and to control and minimize pollution caused by erosion or sedimentation, all in furtherance of the health, safety and general welfare of the citizens of the City. The City of St. Francis finds that the extraction of minerals by surface mining is a basic and essential activity making an important contribution to the economic well-being of the City. The economical availability of sand, gravel, rock, soil and other materials is vital to the continued growth of the region and the City. The City further finds that it is not practicable to extract minerals required by society without disturbing the surface of the earth and producing waste materials. The danger exists that non-compatible land uses could unnecessarily deny the benefit of these materials to society in the future. It is further found that the character of mining may create undesirable land and water conditions which can be detrimental to the health, safety and welfare and property rights of the citizens of the City. However, if properly regulated and if rehabilitation of surface mined lands is required, mining can take place within the City in such a manner that undesirable side effects of the operation may be restricted to an acceptable level.

**10-32-2: PERMIT REQUIRED; ADDITIONAL PERMITS:** No person shall open, operate or maintain either directly or indirectly any active or inactive excavation for extractive purposes or process any sand, gravel, rock, other soils, or derived products unless such person shall first have obtained from the City, any and all permits, an excavation (mining) permit as required in this Ordinance, and an interim use permit. An extraction license and conditional use permit shall not be required for any of the following:

- A. Extraction for the purpose of the foundation, cellar or basement of some immediately pending superstructure to be erected, built or placed thereon contemporaneously with or immediately following such extraction, provided that a building permit has first been issued.
- B. Extraction in reliance on and in accordance with an approved development plan or grading plan.
- C. Extraction by the State, County or City authorities in connection with construction or maintenance of roads or highways or utilities, provided such activity is conducted within the road or highway right-of-way or utility easement.
- D. Curb cuts, utility hook ups or street openings for which another permit is required from the City. Where another license or permit is not required or obtained, the extraction license provided for in this Chapter shall be required.
- E. Extraction of less than one hundred (100) cubic yards. Such extractions, however, will be subject to a staff permit found in Section 10-31 of this Ordinance which will address erosion control, traffic, streets, safety, noise, hours of operation, duration of activity, and environmental factors. If these factors cannot be adequately addressed, the permit may be denied.
- F. Extractions or grading for agricultural purposes. Such extractions will require a Staff Permit as provided for in Section 10-31 of this Ordinance.
- G. Excavation, filling, or grading for purposes other than extraction, mining, or gravel pits. Such activity is permitted in Section 10-31 of this Ordinance.

**10-32-3: APPLICATION FOR PERMIT:** Application for a permit under this Ordinance shall be made in writing to the City on such form as the City may from time to time designate, and shall include the following information:

**A. Minimum Requirements.**

- 1. The correct legal description of the premises where pursuant to this Ordinance, the excavation, removal, processing, recycling, storage or other handling of rock, sand, dirt, gravel, clay, or derived products does or shall occur.
- 2. The names and addresses of the applicant, operator and owner of the land.

3. The primary highways, streets or other public ways within one (1) mile of the boundaries of the pit within the City upon and along which the material excavated or removed shall be transported in normal operation.
4. A map of the proposed pit or excavation are to a scale of one (1) inch equals two hundred (200) feet showing the presently excavated area, the area proposed to be excavated during the permit period, and the minimum and maximum elevations of the area, and showing a minimum of one hundred (100) feet of the adjacent land on all sides of the proposed excavation area.
5. A rehabilitation and restoration plan providing for the orderly and continuing rehabilitation of all excavated land. Such plan shall illustrate, using appropriate photographs, maps, and surveys drawn to a scale of one (1) inch equals two hundred (200) feet and with a five (5) foot contour interval satisfactory to the City Engineer, the following:
  - a. The removal or planned contours of the land when the mineral removal operations are completed.
  - b. The estimated period of time that the pit will be operated and a schedule setting forth the timetable for excavation and rehabilitation of land lying within the active, inactive and restoration areas.
  - c. Those areas of the site currently used for storage of topsoil and overburden.
  - d. The depth of all water bodies, the slopes of all slopes after rehabilitation and a description of the type and quantity of plantings where re-vegetation is to be established.
  - e. A hydrogeological study when restoration activities will or may involve the filling of any groundwater excavation. No groundwater excavation shall be filled, in whole or in part, without prior City approval. The hydrogeological study shall include the following:
    - (1) Description of each groundwater excavation (size, shape and location).
    - (2) Description of the proposed fill activity (grain size distribution, quantity, and placement procedure).
    - (3) Description of the aquifer characteristics in the area of each groundwater excavation to be affected by proposed fill activity (aquifer thickness and general geological setting).



- (4) Description of the impacts of the proposed fill activity on ground water flow regimes.
- (5) Such other information as the City may from time to time require.
- f. Location of any and all existing wells and the size and depth thereof.
- g. Such other information as the City may from time to time require, including, but not limited to, the location or anticipated location of all stockpiles of aggregate-based construction debris material on the land for which the permit is desired.

**10-32-4: BOND:** The applicant for a permit under this Chapter shall post a bond acceptable to the City in an amount based upon an assessment by the City Engineer for an amount per acre or portions thereof for active areas for which a permit is granted, executed by a corporate surety company authorized to do business in the State, conditioned upon full performance of the terms and conditions of this article by the applicant and/or the owner of the premises described in the application, such bond to remain in full force and effect for a minimum period of time of one year after expiration of the permit, which bond shall guarantee the required restoration as well as the other requirements of this Chapter. The surety bond shall be written with an insurance company having a minimum Best's Key Rating Guide of A-VII, or as approved by the City's Insurance Agent.

**10-32-5: INSURANCE REQUIREMENTS:** The applicant for a permit under this Ordinance furnish insurance policies or certificates of insurance acceptable to the City, and issued by an insurance company authorized to do business in the State for coverage and limits as set forth below:

- A. Comprehensive general liability policy on an occurrence basis and having minimum combined single limits as follows:

General Aggregate	\$1,000,000.00
Products-Comp/Ops Aggregate	\$1,000,000.00
Personal and advertising injury	\$1,000,000.00
Each Occurrence	\$1,000,000.00

- B. The policy shall be for the full period of the permit, and such policy shall include, but not be limited to, explosion, collapse, and underground hazards, contractual, and independent contractor's coverage, and proof of insurance to the City shall state such coverage. The City shall be named as an additional insured for any work performed on City property or premises.

- C. Business auto policy covering owned (if any), non-owned, and hired autos with minimum combined single liability limits of \$1,000,000.00 each accident.
- D. Workers' compensation and employers' liability as required by the state.
- E. Should any policies be canceled or not renewed for any cause before expiration date thereof, the issuing company shall mail thirty (30) days' written notice to the City, except such notice shall be ten (10) days for non-payment of premium.
- F. If a policy is terminated for any reason, the permit shall be automatically suspended upon the day the policy terminates, unless a new policy or certificate of insurance complying with this section is obtained and filed with the City prior to the termination of the policy in force.
- G. The insurance policies shall be written with an insurance company having a minimum Best's Key Rating Guide of A-VII, or as approved by the City's Insurance Agent.

**10-32-6: ANNUAL INSPECTION:** At least once a year, or more often if deemed necessary, the City shall inspect all extraction sites where an extraction license and conditional use permit have been issued pursuant to this Chapter and report such findings to the City Council. The operator or owner of any extraction operation found in violation of the requirement of this Chapter or its extraction license or conditional use permit shall remedy such violation within the time specified by written notice from the City.

**10-32-7: PERMIT FEES:** The applicant or owners of the premises shall annually submit to the City written estimates of the total area of the mineral extraction operation (expressed in acres) to be actively mined during the forthcoming year and the total area for which a conditional use permit permitting mineral extraction operations has been granted (expressed in acres) which will not be actively mined in the forthcoming year. The applicant or owner shall pay a fee to the City based on the following:

- A. **Annual Fee Required.** An annual permit fee in an amount duly established by Resolution for each active or inactive gravel pit or excavation operated by the applicant shall be paid by each applicant for a permit and shall be paid at the time of making the application. If the permit is not granted, the fee shall be refunded to the applicant. The permit period shall run from March 1<sup>st</sup> to March 1<sup>st</sup> of the following year.
- B. **Calculation of Annual Fee.** The total annual permit fee shall equal the sum of an active pit fee plus an inactive pit fee, minus a restoration credit, all as calculated pursuant to the following formulas and subject to a minimum total

annual permit fee as set forth by Resolution. Land areas for permit purposes shall be calculated by totaling acreage of parcels of land or portions thereof that have been geometrically divided by straight lines in order to facilitate area calculations.

1. Active Pit Fee: (Acreage of land under active classification) X (fee per acre established by resolution)
2. Inactive Pit Fee: (Acreage of land under inactive classification) X (fee per acre established by resolution)
3. Restoration Area Credit: (Acreage of land which has been completely restored during the previous license year) X (credit per area established by resolution). The restoration credit shall cease once the land is in conformance with the approved restoration or rehabilitation plan.

C. **Refunds or Prorating.** Once the permit is granted to the applicant by the City, the termination of activities at the pit or excavation or revocation of the permit shall not entitle the applicant to a refund or prorating of any of the license fee that has been paid for that current year.

D. **Furnishing of Maps.** If the application is for a renewal of an existing permit, the applicant need not furnish the maps specified in this Chapter unless major modifications or changes are to be made in the approved restoration plan of the land when gravel removal operations are completed.

**10-32-8: RENEWAL OF PERMIT:** If the application is for renewal of an existing permit previously issued pursuant to this Chapter, the operator shall bring the completed application and all necessary bonds, insurance and fees to the City and City Staff shall review the application and forward the information to the City Council.

**10-32-9: AUTHORITY TO IMPOSE ADDITIONAL REQUIREMENTS:** The City, as a prerequisite to the granting of a permit under this Chapter or after such permit has been granted, may impose such further restrictions and requirements as may be reasonable and necessary under the particular circumstances of each application. Such restrictions and requirements may be in contract form with the applicant or any other person interested directly or indirectly in the issuance of such permit.

**10-32-10: STANDARDS FOR OPERATION AND SITE:** Every person to whom a permit is issued under this article shall comply with the following regulations and requirements:

- A. **Limits of Excavation.** No excavation or digging shall be made beyond the limits for which the particular permit is granted, and in no case shall any excavation or digging be made within thirty (30) feet of any adjoining road right-of-way or structure as may be in the area without obtaining specific approval by the City.
- B. **Guardrails and Berms along Roadways.** Where excavations are made within thirty (30) feet of a public roadway or right-of-way, the permittee shall erect either a suitable guardrail along the right-of-way or roadway or construct a dirt berm not less than thirty (30) inches in height and six (6) feet in width at the base.
- C. **Reduction of Dust, Noise, and Nuisance.** All reasonable means shall be employed by the applicant to reduce dust, noise and nuisances.
- D. **Maximum Slopes.** During the entire period of operations, all excavations other than the working base shall be sloped on all sides at a maximum ratio of one (1) foot horizontal to one (1) foot vertical, unless a steeper slope shall be approved by the City Engineer. Where excavations are adjacent to a public roadway or other right-of-way, the excavation shall have a maximum four to one (4:1) slope. Slopes adjacent to or contiguous to bodies of water shall be sloped at a maximum of six to one (6:1).
- E. **Appearance and Screening.** Appearance and screening of the site shall comply with the following standards:
1. Machinery shall be kept in good repair and painted regularly.
  2. Abandoned machinery and rubbish shall be removed from the site regularly.
  3. All structures that are not being used shall be removed from the site.
  4. All equipment and temporary structures shall be removed and dismantled not later than six (6) months after termination of mining operations or expiration of the permit.
  5. Where practical, stockpiles of overburden and materials shall be used to screen the mining site.
  6. Where practical, the perimeter of the mining site shall be planted or otherwise screened.
  7. Existing trees and ground cover shall be preserved to the greatest extent feasible, maintained and supplemented by selective cutting, transplanting and replanting of trees, shrubs and other ground cover along all setback areas.

F. **Operating Standards.** Operating standards shall be as follows:

1. Noise. The maximum noise level at the perimeter of the site shall be within the limits set by the state pollution control agency and the United States Environmental Protection Agency.
2. Hours. All mining operations shall be conducted between 7:00 AM and 7:00 PM, Monday through Saturday, except with approval from the City Council.
3. Dust. Operators shall utilize all practical means to reduce the amount of dust caused by the operation. In no case shall the amount of dust or other particulate matter exceed the standards established by the State Pollution Control Agency.
4. Water Pollution. Operators shall comply with all applicable state pollution control agency regulations and federal and Environmental Protection Agency regulations for the protection of water quality. No waste products or process residue, including untreated wash water, shall be deposited in any lake or natural drainage system, except that lakes or ponds wholly contained within the extraction site may be so utilized.
5. Top soil preservation. All top soil shall be retained at the site until complete rehabilitation of the site has taken place according to the rehabilitation plan.

G. **State and Federal Approvals; Control by City.** The permittee shall notify the City of any approvals required by any State or Federal pollution control agencies for any of the permittee's operations and shall provide the City with copies of any such agencies permission that is granted with regard to the handling of materials involved in processing or recycling operations as referred to in this Chapter. The permittee shall, after notice and an opportunity to be heard by the City Council, change, alter, or modify immediately any excavation or operation deemed by the City to be unsanitary, dangerous, polluted, or contrary to the general health and welfare of the community, or contrary to any approval of any such pollution control agency.

H. **Securing of Abandoned Wells.** All wells greater than six inches in diameter placed in or upon the premises described in the application shall be secured and capped upon abandonment under the specific direction of the City Engineer or designated agent.

I. **Disposal of Waste Water.** Applicants shall dispose of all waste water used on the site in a manner which will not adversely affect adjoining property and shall

use stilling ponds or other methods satisfactory to the City for disposing of the suspended solids in the waste water.

- J. **Access Roads.** Applicants shall provide adequate access roads to and from the site which shall have proper sight distances for traffic safety at each point of access.
- K. **Compliance with Road Limits.** Applicants shall obey all State, County and municipal road limits in hauling to and from the site.
- L. **Cessation of Operation.** If operations cease, completely or substantially, on the site for a period of more than one year, or if substantially all gravel and sand deposits thereon have been removed and no further operations shall be conducted thereon, then the City may terminate the permit to operate the pit and declare the site a restoration area subject to all requirements of the site's restoration plan and bonding requirements.
- M. **Operation by Person Other Than Applicant.** The applicant shall not permit any other person to operate the pit, other than hauling to or from the pit, without first obtaining the written consent of the City and an appropriate acknowledgement of such others that they will be bound by an agreement in effect and covered by the bond.
- N. **Stockpiles.** Stockpiles of active operations shall be regulated as follows, subject to modification by the City when materials not listed are proposed for stockpiling:
  - 1. **Materials.** Stockpiles may consist of granular (aggregate) and non-granular soils; unprocessed aggregate-based construction debris materials, including, but not limited to, concrete, reinforced concrete, cement, concrete block products, and bituminous pavement; processed materials containing no individual pieces larger than three (3) inches, with more than fifty (50) percent of the individual pieces no larger than two inches, produced from the recycling or crushing or aggregate-based construction debris materials; common borrow, topsoil and pulverized topsoil; and petroleum-contaminated soil being managed pursuant to state (MPCA) and County approval.
  - 2. **Size.** The size of stockpiles shall be limited based upon site conditions and as follows:
    - a. Stockpiles consisting of overburden materials, non-granular inorganic soils, granular soils and sorted by products, and processed materials produced from the recycling or crushing of aggregate-based construction debris materials may be unlimited in size.

- b. The total size of an operator's unprocessed aggregate-based construction debris material stockpiles on any December 31 shall not exceed four (4) times the highest annual volume of materials produced from the recycling or crushing of aggregate-based construction debris materials sold and/or used by the operator from City processing locations in the previous five calendar years.
  - c. The size of petroleum-contaminated soil stockpiles shall comply with any and all federal, state and City limitations, except that stockpiles consisting of petroleum-contaminated soils treated pursuant to state (MPCA) and County approval shall be limited to a maximum quantity of fifty thousand (50,000) cubic yards.
  - d. The size of stockpiles of common borrow materials and other soils unsuitable for restoration fill, and stockpiles of topsoil and pulverized topsoil in excess of eight hundred (800) cubic yards per acre, shall require approval of the City. Approval shall be dependent upon factors such as, but not limited to; the material to be stockpiled, the reason for and location of the stockpile and the length of time the stockpile will remain.
3. Location. The location of stockpiles shall comply with the following requirements:
- a. All aggregate-based construction debris material stockpiles shall be located in accordance with the permit application. The location of all other stockpiles shall be as stated in this subsection, or as otherwise approved by the City.
  - b. Stockpiles of granular soils, sorted byproducts and processed aggregate-based construction debris material shall be located to screen the processing or recycling operations from other incompatible land uses, unless such location is not safe or not feasible because of specific stockpile area conditions. For purposes of this Chapter, incompatible uses shall include, but not be limited to, residential and park areas, non-mining and non-industrial uses, and uses not involving outdoor storage.
  - c. Stockpiles of petroleum-contaminated soils shall be located in accordance with any and all federal, state and county permit requirements.
  - d. Control of Nuisances, removal of residual wastes. Stockpiling must be done in a manner that minimizes dust and other windblown material, vermin population due to improper storage, and other

nuisance conditions. All non-earth residual wastes shall be removed at least once a year.

- e. **Bond.** To ensure the proper operation and closure of stockpile areas, and to provide for corrective actions, the applicant for a permit required pursuant to this Chapter shall submit a bond on or before March 1 of each year, conditioned upon full performance of the terms and conditions of this article by the applicant and/or owner of the premises described in the application. The bond shall be executed by a corporate surety company authorized to do business in the state and shall remain in full force and effect for a minimum of one year after expiration of the permit. The amount of the bond shall be calculated by determining the number of cubic yards of unprocessed aggregate-based construction debris materials stockpiled at the active gravel pit or excavation as of the previous December 31, subtracting an amount equal to two times the highest volume of annual sales or use of materials produced from the recycling or crushing of aggregate-based construction debris material in the City by the operator in the previous five calendar years, and multiplying the remaining number of cubic yards by \$1.00. The bond shall be in addition to the restoration bond required pursuant to this Chapter.
- 4. **Removal.** Stockpiles must be consumed or removed at such time that the permit required under this Chapter is no longer requested or issued, unless otherwise approved by the City in accordance with conditions associated with permits granted under this Chapter.
- 5. **Records.** The operator shall maintain sufficient records so as to permit the City to monitor and administer this Chapter and shall make those records available to the City for inspection during regular business hours of the City

**10-32-11: REHABILITATION AND RESTORATION STANDARDS:** Site rehabilitation and restoration shall be a continuing operation occurring as quickly as possible after the mining operation has moved sufficiently into another part of the extraction site. Site rehabilitation and restoration shall comply with the following standards:

- A. **Slopes.** All banks and slopes shall be left in accordance with the rehabilitation plan submitted with the permit application. No rehabilitated slopes shall be steeper than four (4) feet horizontal to one (1) foot vertical, except that steeper slopes may be permitted in accordance with the rehabilitation plan when the slopes are planned for slope-related usages, such as ski and sliding hills.



- B. **Cover and Planting.** Slopes and graded and backfilled areas shall be surfaced with at least three inches of topsoil and planted with ground cover sufficient to hold the soil. Such ground cover shall be tended as necessary until it is self-sustained.
- C. **Slopes to Water Bodies.** No slope descending to a water body shall exceed one foot vertical to six feet horizontal, except that steeper slopes may be permitted in accordance with the rehabilitation plan when human or property safety is not endangered.
- D. **Rehabilitation of Water Bodies.** All water areas resulting from excavation shall be rehabilitated as follows:
1. The bottom contour must be gradually sloping from the shoreline to the deepest portion at a maximum slope of six (6) feet horizontal to one (1) foot vertical for at least thirty (30) feet unless fenced pursuant to plans previously approved by the City.
  2. The water depth in the deepest portions must not be less than five (5) feet measured from the low-water mark.
- E. **Final Elevation.** No part of the rehabilitated area which is planned for utilization for uses other than open space or agriculture shall be at an elevation lower than the minimum required for gravity connection to sewer and storm sewer.
- F. **Enforcement.** To ensure the restoration plan approved by the City is being followed, the City Engineer may make those field measurements deemed necessary by the City to ensure that the approved restoration plan is being followed and the permit holder hereby allows entry for that purpose.
- G. **Duties Upon Cessation of Operation.** Upon ceasing operation or leaving any particular excavation area in an excavation or pit site, applicants shall re-grade and restore the area as required in this Chapter and in accordance with the approved restoration or rehabilitation plan previously agreed upon by the City and operator or owner of the pit or to such other usable condition which is agreed upon by the permittee and the City at the time of the required restoration.
- H. **Active Gravel Pits.** Restoration and rehabilitation are not mandatory in an active gravel pit area but may be concurrent with other operations if possible.
- I. **Compliance with Rehabilitation Plan.** Restoration and rehabilitation are mandatory and must take place according to the approved restoration and rehabilitation plan and schedule, and each day's violation shall be deemed a separate offense.

- J. **Monitoring of Imported Soils.** The City may require adherence to a soil monitoring program approved by the City with regard to soils imported for use in rehabilitation or restoration.
- K. **Standards for Filling and Compaction.** Prior to rehabilitation and/or restoration, the operator shall set forth to the City Engineer the location, area, and depth of the land before and after the anticipated activity. Such activity and the materials used shall be subject to the following:
1. Prior to such activity, the operator shall submit an engineering analysis of the proposed fill and compaction method to the City Engineer. Side slopes of the excavation shall be graded to a minimum one to one (1:1) slope prior to placement of fill.
  2. Unless otherwise approved by the City, materials including, but not limited to, organic soils and debris (topsoil, peat muskeg, muck, stumps, roots, logs, brush, etc.) demolition debris (broken concrete or bituminous fragments, brick, lumber, metal, etc.) and any other solid or hazardous wastes shall not be used as fill in rehabilitation and restoration.
  3. Imported materials used as fill in rehabilitation and restoration shall consist of mineral soils which typically demonstrate a minimum soil bearing capacity of one thousand five hundred (1,500) psf and are suitable for building foundations.
  4. The top ten feet of all fill areas shall be compacted by mechanical equipment as the fill is placed, unless otherwise approved by the City, to a minimum of ninety-five (95) percent of maximum density for a particular soil as determined by the Standard Proctor method.

## CHAPTER 50

### GENERAL ZONING DISTRICT PROVISIONS

#### SECTION:

- 10-50-1: Establishment of Districts
- 10-50-2: Zoning District Boundaries
- 10-50-3: Zoning Map
- 10-50-4: Annexations

**10-50-1: ESTABLISHMENT OF DISTRICTS:** In order to classify, regulate and restrict the location of trade and industry, and the location of buildings designated for specific uses, to protect residential uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards and open space within and surrounding such buildings, the City is hereby divided into zoning districts. The use, height and area regulations shall be uniform in each district, and said districts shall be known as:

#### A. **Agricultural Districts:**

- 1. A-1, Permanent Agriculture District.
- 2. A-2, Rural Estate Agriculture District.
- 3. A-3, Interim Agriculture District.

#### B. **Residential Districts:**

- 1. RR, Rural Residential District.
- 2. R-1, Urban Estate Single Family Residential District.
- 3. R-2, Urban Single and Two Family Residential District.
- 4. R-3, Medium Density Residential District.
- 5. R-4, High Density Residential District.

#### C. **Business Districts:**

- 1. B-1, Central Business District.
- 2. B-2, General Business District.
- 3. B-3, Business Park District.

#### D. **Industrial Districts:**

- 1. I-1, Light Industrial District.
- 2. I-2, General Industrial District.
- 3. I-3, Isolated Industrial District.

**E. Special Districts:**

1. PUD, Planned Unit Development District.
2. CO, Conservancy District.

**F. Environmental Protection Districts:**

1. FP, Floodplain Overlay District.
2. RRM, Rum River Management District.

**10-50-2: ZONING DISTRICT BOUNDARIES:** Zoning district boundary lines established by this Ordinance generally follow lot lines, the center lines of railroad rights-of-way, street rights-of-way, watercourses or the corporate limit lines, all as they exist upon the effective date of this Ordinance.

- A. Appeals concerning the exact location of a zoning district boundary line shall be heard by the Council serving as the Board of Zoning Appeals pursuant to Chapter 5 of this Ordinance.
- B. Whenever any street, alley or other public way is vacated by official action by the City, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.
- C. All streets, alleys, public ways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property in the most restrictive classification immediately abutting upon such alleys, streets, public ways or railroad rights of way. Where the center line of a street, alley, public way or railroad rights of way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.
- D. All areas within the corporate limits of the City which are under water and which are not shown as included within any zone shall be subject to all regulations of the zone which immediately adjoins such water area. If such water area adjoins two (2) or more zones, the boundaries of each zone shall be construed to be extended into the water area in a straight line until they meet the other district at the halfway point and/or to the corporate limits.

**10-50-3: ZONING MAP:** The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning map entitled St. Francis Zoning Map. Said Map shall be on file with the Zoning Administrator, and hereinafter referred to

as the "Zoning Map". Said map and all the notations, references; and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference. It is the responsibility of the Zoning Administrator to maintain the St. Francis Zoning Map, and amendments thereto shall be recorded on said Map. The Official St. Francis Zoning Map shall be kept on file in the City Hall.

**10-50-4: ANNEXATIONS:** All territory hereafter annexed to the City which is not shown on the Zoning Map shall automatically, upon annexation, be classified within the A-2, Rural Estate-Agriculture District and shall be subject to all regulations, notations, references and conditions as are applicable to said District until such time that a determination may be made as to the proper district classification for such territory and an amendment can be made to that effect.

## CHAPTER 51

### A-1, PERMANENT AGRICULTURE DISTRICT

#### SECTION:

- 10-51-1: Purpose
- 10-51-2: Permitted Uses
- 10-51-3: Accessory Uses
- 10-51-4: Conditional Uses
- 10-51-5: Interim Uses
- 10-51-6: Lot Area, Density, and Setback Requirements
- 10-51-7: Building Height

**10-51-1: PURPOSE:** The A-1, Permanent Agriculture District is intended to accommodate those farms willing to make long term commitments to agricultural operations. This district is intended to contain those areas of St. Francis in the rural service area where, because of the land capability, and capital investment in farming operations, it is necessary to preserve, promote, maintain, and enhance the use of land for long term agricultural purposes. This district will be used solely at the request of area farmers.

**10-51-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in an A-1 District:

- A. Essential services as regulated by Chapter 25 of this Ordinance.
- B. Farms, farmsteads, farming and agricultural related buildings and structures subject to Minnesota Pollution Control Standards, but not including animal feedlots or other commercial operations.
- C. Forestry and tree farms, excluding retail sales.
- D. Hobby farms.
- E. Personal wireless service antennas located upon a public structure, as regulated by Chapter 22 of this Ordinance.
- F. Public parks, playgrounds, recreational uses, wildlife areas and game refuges.
- G. Single family detached dwellings.
- H. State licensed residential care facilities serving six (6) or fewer persons.

- I. Temporary seasonal stands for the sale of agricultural products restricted to farms as regulated by Section 10-17-13 of this Ordinance.

**10-51-3: ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the A-1 District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim permit in this Ordinance.
- B. Fences.
- C. In home state licensed day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- D. Operation and storage of such vehicles, equipment and machinery which are incidental and customary to permitted or conditional uses allowed in this district.
- E. Permitted home occupations as regulated by Chapter 21 of this Ordinance.
- F. Private garages, parking spaces and carports for licensed and operable passenger cars and trucks.
- G. Except as otherwise limited, private recreational facilities, only accessory to an existing principal permitted use on the same lot and which are operated for the enjoyment and convenience of the residents of the principal use and their occasional guests.
- H. Private recreational vehicles and equipment.
- I. Radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, Federally licensed amateur radio stations and television receivers, as regulated by Section 22 of this Ordinance.

**10-51-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses allowed in an A-1 District (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 6 of this Ordinance.):

- A. Cemeteries, provided that:
  - 1. The site accesses on a major collector.

2. The site is landscaped in accordance with Chapter 20 of this Ordinance.
  3. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
- B. Commercial animal feedlots.
- C. Commercial horse stables provided that: (Ord 160, SS, 8-10-11)
1. The provisions of Chapter 6, Conditional Use Permits of this Ordinance, and Section 8-3, Animals of the City Code are considered and determined to be satisfied. (Ord 160, SS, 8-10-11)
  2. The use is located on an arterial or collector road.
  3. The use is accessory to a residential use.
  4. All standards pertaining to Chapter 21 of this Ordinance are met.
- D. Forestry and Tree Farms, including retail sales.
- E. Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
1. When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with Section 20 of this Ordinance.
  2. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
- F. Personal wireless service towers and antennas not located on a public structure as regulated by Section 22 of this Ordinance.
- G. Wholesale Nursery and Greenhouse.

**10-51-5: INTERIM USES:** Subject to applicable provisions of Chapter 7 of this Ordinance.

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.



2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
  - a. The quantity of material to be removed and the plan of operation
  - b. Compatibility with present and future land uses in the area.
  - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Interim Home Occupations as regulated by Chapter 21 of this Ordinance.
- C. Mining, sand and gravel extraction, land reclamation and alteration provided that:
  1. The use will be in compliance with the provisions of Chapter 32 of this Ordinance or other applicable provisions of the City Code.
  2. The provisions of Chapter 7 of this Ordinance are considered and determined to be satisfied.
- D. Non-farm related seasonal produce sales as a principal use provided that:
  1. Retail produce sales may only be conducted on the subject site between April 1st and October 31st of any given year.
  2. The sales area devoted to produce not grown on the subject site shall be limited to not more than ten (10) percent of the gross floor area of the principal use.
  3. The area devoted retail sales of non-produce goods shall be limited to not more than five (5) percent of the gross floor area of the principal use.
  4. Municipal sanitary sewer and water service is not presently available to the subject site.
  5. The use has frontage to an arterial or collector street and direct access from a paved City street.
  6. Adequate off-street parking space and surface is provided and no parking related to such sales occurs on the public right-of-way.
  7. Signs.
    - a. Are located only on the subject site and are not more than one hundred (100) feet from the point of sale.

- b. Are limited to no more than two (2) structures totaling not more than sixteen (16) square feet.
  - c. Are erected and removed daily and are not to be displayed at times when the sales operation is closed.
- E. Home Extended Businesses as regulated by Chapter 21 of this Ordinance. (Ord 148, SS, 10-3-10)
- F. Kennels provided that: (Ord 160, SS, 8-10-11)
  - 1. The provisions of Chapter 7, Interim Use Permits of this Ordinance, and Section 8-3, Animals of the City Code are met.
  - 2. Any breeding, boarding, exhibiting, or other such commercial activity shall require the site to be located on a collector or arterial roadway, have sufficient off-street parking supplied, provide adequate fencing and/or screening to adjacent uses, and be in compliance with Chapter 21 of this Ordinance regarding home occupations.
  - 3. The kennel shall be accessory to a residential use.
  - 4. The subject site shall be a minimum of five (5) acres in size.
  - 5. The property owner shall be in receipt of a kennel license as required in Section 6-7 of the City Code.
  - 6. No more than fifteen (15) dogs over the age of six (6) months shall be kept on the site at any time.

**10-51-6: LOT AREA, DENSITY, AND SETBACK REQUIREMENTS:** The following minimum requirements shall be observed in an A-1 District, subject to additional requirements, exceptions and modifications set forth in this Chapter:

A. Lot Area Requirements:

- 1. Minimum Lot Area: Forty (40) acres.
- 2. Minimum Lot Width: One hundred fifty (150) feet.

B. Principal Structure Setbacks:

- 1. Front Yard:
  - a. Seventy-five (75) feet from a collector or arterial street.

- b. Thirty-five (35) feet from a local street.
- 2. Side Yard: Ten (10) feet.
- 3. Rear Yard: Thirty-five (35) feet.
- C. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance.
- D. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-51-7: BUILDING HEIGHT:** The following minimum requirements shall be observed in an A-1 District, subject to additional requirements, exceptions, and modifications set forth in this Chapter.

- A. The maximum height of all principal buildings shall not exceed three (3) stories or thirty-five (35) feet, whichever is less.
- B. Accessory structures shall be governed by Chapter 18 of this Ordinance.

## CHAPTER 52

### A-2, RURAL ESTATE-AGRICULTURE DISTRICT

#### SECTION:

- 10-52-1: Purpose
- 10-52-2: Permitted Uses
- 10-52-3: Accessory Uses
- 10-52-4: Conditional Uses
- 10-52-5: Interim Uses
- 10-52-6: Lot Area, Density, and Setback Requirements
- 10-52-7: Building Height

**10-52-1: PURPOSE:** The purpose of the A-2 District is to provide suitable areas of the City to be retained and utilized for low density residential, open space, and/or agricultural uses and to prevent rapid urbanization and provide economy in public expenditures.

**10-52-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in the A-2 District:

- A. Essential services as regulated by Chapter 25 of this Ordinance.
- B. Farms, farmsteads, farming and agricultural related buildings and structures subject to Minnesota Pollution Control Standards, but not including animal feedlots or other commercial operations.
- C. Forestry and tree farms excluding retail sales.
- D. Hobby farms.
- E. Municipally operated public uses, utilities, and buildings.
- F. Personal wireless service antennas located upon a public structure, as regulated by Chapter 22 of this Ordinance.
- G. Public parks, playgrounds, recreational uses, wildlife areas and game refuges.
- H. Residential care facilities serving six (6) or fewer persons.
- I. Single family detached dwellings.

**10-52-3: ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the A-2 District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim permit in this Ordinance.
- B. Fences.
- C. In home day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- D. Operation and storage of such vehicles, equipment and machinery which are incidental and customary to permitted or conditional uses allowed in this district.
- E. Permitted home occupations as regulated by Chapter 21 of this Ordinance.
- F. Private garages, parking spaces and carports for licensed and operable passenger cars and trucks.
- G. Private recreational vehicles and equipment.
- H. Radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, Federally licensed amateur radio stations and television receivers, as regulated by Chapter 22 of this Ordinance.
- I. Temporary seasonal sales of products proposed on site (farms only) as regulated by Section 10-17-13 of this Ordinance.

**10-52-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses allowed in an A-2 District: (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 6 of this Ordinance.)

- A. Airports and airstrips.
- B. Cemeteries, provided that:
  - 1. The site accesses on a major collector.
  - 2. The site is landscaped in accordance with Chapter 20 of this Ordinance.

3. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.

C. Chemical dependency treatment center, provided that:

1. The nature of the facility requires a remote and isolated location.
2. The facility shall be for inpatient treatment only.
3. The facility shall be on a parcel forty (40) acres in size or greater.
4. The facility shall meet all parking, landscaping, and other performance standards required for institutional uses.
5. The side yard setback shall be increased to twenty-five (25) feet.
6. The open visitation time shall not exceed the State mandated minimum.
7. There shall be no kitchens in the individual units.
8. There shall be no more than fifty (50) patients.
9. The facility shall be accessed from a collector or arterial roadway.
10. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.

D. Commercial feedlots.

E. Commercial horse stables provided that: (Ord 160, SS, 8-10-11)

1. The provisions of Chapter 6, Conditional Use Permits of this Ordinance and Section 8-3, Animals of the City Code are considered and determined to be satisfied. (Ord 160, SS, 8-10-11)
2. The use is located on an arterial or collector road.
3. The use is accessory to a residential use.
4. All standards pertaining to Chapter 21 of this Ordinance are met.

F. Commercial outdoor recreational areas including gun clubs, golf courses and country clubs, swimming pools and similar facilities provided that:

1. The principal use, function or activity is open, outdoor in character.

2. The use will not negatively impact abutting or neighboring existing or potential residential uses.
  3. When abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Chapter 20 of this Ordinance.
  4. The traffic generated by the use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
  5. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
- G. Forestry and Tree Farms, including retail sales.
- H. Governmental (non-municipal) and public regulated utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
1. When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with Chapter 20 of this Ordinance.
  2. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
- I. Personal wireless service towers and antennas not located on a public structure as regulated by Chapter 22 of this Ordinance.
- J. Wholesale Nursery and Greenhouse.

**10-52-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in the A-2 District and are governed by Chapter 7 of this Ordinance.

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:

- a. The quantity of material to be removed and the plan of operation
  - b. Compatibility with present and future land uses in the area.
  - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Interim Home Occupations as regulated by Chapter 21.
- C. Mining, sand and gravel extraction, land reclamation and alteration provided that:
  - 1. The use will be in compliance with the provisions of Chapter 32 of this Ordinance and other applicable provisions of the City Code.
  - 2. The provisions of Chapter 7 of this Ordinance are considered and determined to be satisfied.
- D. Home Extended Businesses as regulated by Chapter 21 of this Ordinance. (Ord 148, SS, 10-3-10)
- E. Kennels provided that: (Ord 160, SS, 8-10-11)
  - 1. The provisions of Chapter 7, Interim Use Permits of this Ordinance, and Section 8-3, Animals of the City Code are met.
  - 2. Any breeding, boarding, exhibiting, or other such commercial activity shall require the site to be located on a collector or arterial roadway, have sufficient off-street parking supplied, provide adequate fencing and/or screening to adjacent uses, and be in compliance with Chapter 21 of this Ordinance regarding home occupations.
  - 3. The kennel shall be accessory to a residential use.
  - 4. The subject site shall be a minimum of five (5) acres in size.
  - 5. The property owner shall be in receipt of a kennel license as required in Section 6-7 of the City Code.
  - 6. No more than fifteen (15) dogs over the age of six (6) months shall be kept on the site at any time.



**10-52-6: LOT AREA, DENSITY, AND SETBACK REQUIREMENTS:** The following minimum requirements shall be observed in an A-2 District, subject to additional requirements, exceptions and modifications set forth in this Chapter.

A. Lot Area Requirements:

1. Minimum Lot Area: Ten (10) acres.
2. Minimum Lot Width: Three hundred (300) feet.

B. Principal Structure Setbacks:

1. Right-of-way:
  - a. Seventy-five (75) feet from a collector or arterial street.
  - b. Thirty-five (35) feet from a local street.
2. Side Yard: Ten (10) feet.
3. Rear Yard: Thirty-five (35) feet.

C. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance.

D. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-52-7: BUILDING HEIGHT:** The following minimum requirements shall be observed in an A-2 District, subject to additional requirements, exceptions and modifications set forth in this Chapter:

A. The maximum height of principal buildings shall not exceed three (3) stories or thirty-five (35) feet, whichever is less.

B. Accessory structure height shall be governed by Chapter 18 of this Ordinance.

## CHAPTER 53

### A-3, INTERIM AGRICULTURE DISTRICT

#### SECTION:

- 10-53-1: Purpose
- 10-53-2: Permitted Uses
- 10-53-3: Accessory Uses
- 10-53-4: Conditional Uses
- 10-53-5: Interim Uses
- 10-53-6: Lot Area, Density, and Setback Requirements
- 10-53-7: Building Height

**10-53-1: PURPOSE:** The purpose of the A-3 District is to provide for interim agricultural and low density residential land uses for areas facing imminent urbanization.

**10-53-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in the A-3 District:

- A. Essential services.
- B. Farms, farmsteads, farming and agricultural related buildings and structures subject to Minnesota Pollution Control Agency standards, but not including animal feedlots or other commercial operations.
- C. Forestry, nurseries, greenhouses, and tree farms excluding retail sales.
- D. Hobby farms.
- E. Municipally operated public uses, utilities, and buildings.
- F. Personal wireless service antennas located upon a public structure, as regulated by Chapter 22 of this Ordinance.
- G. Public parks, playgrounds, recreational uses, wildlife areas and game refuges.
- H. Residential care facilities serving six (6) or fewer persons.
- I. Single family detached dwellings.

**10-53-3: ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the A-3 District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim permit in this Ordinance.
- B. Fences.
- C. In home day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- D. Operation and storage of such vehicles, equipment and machinery which are incidental and customary to permitted or conditional uses allowed in this district.
- E. Permitted home occupations as regulated by Chapter 21 of this Ordinance.
- F. Private garages, parking spaces and carports for licensed and operable passenger cars and trucks.
- G. Private recreational vehicles and equipment.
- H. Radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Chapter 22 of this Ordinance.

**10-53-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses allowed in an A-3 District: (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 6 of this Ordinance.)

- A. Cemeteries, provided that:
  - 1. The site accesses on a major collector.
  - 2. The site is landscaped in accordance with Chapter 20 of this Ordinance.
  - 3. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
- B. Commercial outdoor recreational areas including golf courses and country clubs, swimming pools and similar facilities provided that:
  - 1. The principal use, function or activity is open, outdoor in character.

2. The use will not negatively impact abutting or neighboring existing or potential residential uses.
  3. When abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Chapter 20 of this Ordinance.
  4. The traffic generated by the use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
  5. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
- C. Governmental (non-municipal) and public regulated utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
1. When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with Chapter 20 of this Ordinance.
  2. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
- D. Personal wireless service towers and antennas not located on a public structure as regulated by Chapter 22 of this Ordinance.

**10-53-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in the A-3 District and are governed by Chapter 7 of this Ordinance:

- A. Airports and airstrips.
- B. Commercial horse stables provided that: (Ord 160, SS, 8-10-11)
1. The provisions of Chapter 7, Interim Use Permits of this Ordinance and Section 8-3, Animals of the City Code are considered and determined to be satisfied. (Ord 160, SS, 8-10-11)
  2. The use is located on an arterial or collector road.
  3. The use is accessory to a residential use.
  4. All standards pertaining to Chapter 21 of this Ordinance are met.

- C. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
  - 1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  - 2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
    - a. The quantity of material to be removed and the plan of operation
    - b. Compatibility with present and future land uses in the area.
    - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- D. Forestry and Tree Farms, including retail sales.
- E. Interim Home Occupations as regulated by Chapter 21.
- F. Mining, sand and gravel extraction, land reclamation and alteration provided that:
  - 1. The use will be in compliance with the provisions of Chapter 32 of this Ordinance and other applicable provisions of the City Code.
  - 2. The provisions of Chapter 7 of this Ordinance are considered and determined to be satisfied.
- G. Temporary seasonal sales of products proposed on site (farms only) as regulated by Section 10-17-13 of this Ordinance.
- H. Wholesale Nursery and Greenhouse.
- I. Home Extended Businesses as regulated by Chapter 21 of this Ordinance. (Ord 148, SS, 10-3-10)
- J. Kennels provided that: (Ord 160, SS, 8-10-11)
  - 1. The provisions of Chapter 7, Interim Use Permits of this Ordinance, and Section 8-3, Animals of the City Code are met.
  - 2. Any breeding, boarding, exhibiting, or other such commercial activity shall require the site to be located on a collector or arterial roadway, have sufficient off-street parking supplied, provide adequate fencing and/or

screening to adjacent uses, and be in compliance with Chapter 21 of this Ordinance regarding home occupations.

3. The kennel shall be accessory to a residential use.
4. The subject site shall be a minimum of five (5) acres in size.
5. The property owner shall be in receipt of a kennel license as required in Section 6-7 of the City Code.
6. No more than fifteen (15) dogs over the age of six (6) months shall be kept on the site at any time.

**10-53-6: LOT AREA, DENSITY, AND SETBACK REQUIREMENTS:** The following minimum requirements shall be observed in an A-3 District, subject to additional requirements, exceptions and modifications set forth in this Chapter.

A. Lot Area Requirements:

1. Minimum Lot Area: Ten (10) acres.
2. Minimum Lot Width: Three hundred (300) feet.

B. Principal Structure Setbacks:

1. Right-of-way:
  - a. Seventy-five (75) feet from a collector or arterial street.
  - b. Thirty-five (35) feet from a local street.
2. Side Yard: Ten (10) feet.
3. Rear Yard: Thirty-five (35) feet.

C. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance.

D. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-53-7: BUILDING HEIGHT:** The following minimum requirements shall be observed in an A-3 District, subject to additional requirements, exceptions and modifications set forth in this Chapter:

- A. The maximum height of principal buildings shall not exceed three (3) stories or thirty-five (35) feet, whichever is less.
- B. Accessory structure height shall be governed by Chapter 18 of this Ordinance.

## CHAPTER 54

### RR, RURAL RESIDENTIAL DISTRICT

#### SECTION:

- 10-54-1: Purpose
- 10-54-2: Permitted Uses
- 10-54-3: Interim Uses
- 10-54-4: Accessory Uses
- 10-54-5: Conditional Uses
- 10-54-6: Lot Area, Density, and Setback Requirements
- 10-54-7: Building Height
- 10-54-8: Marginal Land PUD Standards

**10-54-1: PURPOSE:** The purpose of the RR District is to accommodate and preserve existing un-sewered single family residential homes developed at densities greater than one (1) unit per ten (10) acres.

**10-54-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in the RR District:

- A. Essential services.
- B. Municipally operated public uses and buildings.
- C. Personal wireless service antennas located upon a public structure, as regulated by Chapter 22 of this Ordinance.
- D. Public parks, playgrounds, recreational uses, wildlife areas and game refuges.
- E. Single family detached dwellings.
- F. State licensed residential care facilities serving six (6) or fewer persons.

**10-54-3: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in the RR District and are governed by Chapter 7 of this Ordinance.

- A. Excavation for transport or importation of fill of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:



1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
    - a. The quantity of material to be removed and the plan of operation
    - b. Compatibility with present and future land uses in the area.
    - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Interim Home Occupations as regulated by Chapter 21 of this Ordinance.
- C. Mining, sand and gravel extraction, land reclamation and alteration provided that:
1. The use will be in compliance with the provisions of Chapter 32 of this Ordinance and other applicable provisions of the City Code.
  2. The provisions of Chapter 7 of this Ordinance are considered and determined to be satisfied.
- D. Home Extended Businesses as regulated by Chapter 21 of this Ordinance. (Ord 148, SS, 10-3-10)

**10-54-4: ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the RR District:

- A. Accessory structures as regulated by Chapter 18 of this Ordinance.
- B. Fences.
- C. Home occupations as regulated by Chapter 21 of this Ordinance.
- D. Operation and storage of such vehicles, equipment and machinery which are incidental and customary to permitted or conditional uses allowed in this district.
- E. Private garages, parking spaces and car ports for licensed and operable passenger cars and trucks.
- F. Except as otherwise limited, private recreational facilities, only accessory to an existing principal permitted use on the same lot and which are operated for the

enjoyment and convenience of the residents of the principal use and their occasional guests.

- G. Private recreational vehicles and equipment.
- H. Radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Chapter 22 of this Ordinance.
- I. State licensed in-home day care serving fourteen (14) or fewer persons in a single family detached dwelling.

**10-54-5: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses allowed in an RR District: (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 6 of this Ordinance.)

- A. Cemeteries, provided that:
  - 1. At minimum, the site accesses on a major collector.
  - 2. The site is landscaped in accordance with Chapter 20 of this Ordinance.
  - 3. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
- B. Commercial outdoor recreational areas including golf courses and country clubs, swimming pools and similar facilities provided that:
  - 1. The principal use, function or activity is open, outdoor in character.
  - 2. The use will not negatively impact abutting or neighboring existing or potential residential uses.
  - 3. When abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Chapter 20 of this Ordinance.
  - 4. The traffic generated by the use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.

5. The provisions of Section Chapter 6 of this Ordinance are considered and determined to be satisfied.
- C. Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
    1. When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with Chapter 20 of this Ordinance.
    2. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
  - D. Personal wireless service towers and antennas not located on a public structure as regulated by Chapter 22 of this Ordinance.

**10-54-6: LOT AREA, DENSITY, AND SETBACK REQUIREMENTS:** The following minimum requirements shall be observed in an RR District, subject to additional requirements, exceptions and modifications set forth in this Ordinance.

- A. Lot Area Requirements:
  1. Minimum Lot Area: Two and one-half (2.5) acres.
  2. Minimum Lot Width: Three hundred (300) feet abutting County or State Highways and two hundred fifty (250) feet on City streets.
- B. Principal Structure Setbacks:
  1. Right-of-way: Thirty-five (35) feet from a City street and fifty (50) feet from a County or State highway.
  2. Side Yard: Twenty-five (25) feet.
  3. Rear Yard: Thirty-five (35) feet.
- C. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance.
- D. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-54-7: BUILDING HEIGHT:** The following minimum requirements shall be observed in an RR District, subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. The maximum height of principal buildings shall not exceed three (3) stories or thirty-five (35) feet, whichever is less.
- B. Accessory structures shall be governed by Chapter 18 of this Ordinance.

**10-54-8: MARGINAL LAND PUD STANDARDS:** Marginal land PUDs are required to meet the following standards:

- A. Lot Area Requirements:
  - 1. Minimum Lot Area: One and one-half (1.5) acres.
  - 2. Minimum Lot Width: Three hundred (300) feet abutting County or State highway, two hundred fifty (250) feet on City streets, and one hundred (100) feet on cul-de-sacs/curves.
- B. Principal Structure Setbacks:
  - 1. Right-of-way: Thirty-five (35) feet from a City Street and fifty (50) from a County or State highway.
  - 2. Side Yard: Twenty-five (25) feet.
  - 3. Rear Yard: Thirty-five (35) feet.
- C. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance. Parcels in Marginal Land PUDs are allowed one (1) accessory structure not to exceed one thousand two hundred (1,200) square feet in size.
- D. Houses within Marginal Land PUDs shall maintain a uniform front yard setback to the greatest extent possible.
- E. The keeping of livestock as defined in Chapter 8 of the City Code is prohibited in all Marginal Land PUDs, regardless of lot size.

## CHAPTER 56

### R-1, URBAN ESTATE SINGLE FAMILY RESIDENTIAL DISTRICT

#### SECTION

- 10-56-1: Purpose
- 10-56-2: Permitted Uses
- 10-56-3: Accessory Uses
- 10-56-4: Conditional Uses
- 10-56-5: Interim Uses
- 10-56-6: Lot Area and Setback Requirements
- 10-56-7: Lot Coverage and Height

**10-56-1 PURPOSE:** The purpose of the R-1, Urban Estate Single Family Residential District is to provide for low density single family detached dwelling units served by municipal sanitary sewer in areas of the City with unique natural features and amenities.

**10-56-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in the R-1 District:

- A. Essential services.
- B. Personal wireless service antennas located upon a public structure, as regulated by Chapter 22 of this Ordinance.
- C. Public parks and playgrounds.
- D. Single family detached dwellings.
- E. State licensed residential care facilities serving six (6) or fewer persons.

**10-56-3: ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the R-1 District:

- A. Accessory structures as regulated by Chapter 18 of this Ordinance.
- B. Accessory uses incidental and customary to the uses permitted in Sections 10-56-2, 10-56-3, and 10-56-5 of this Ordinance.
- C. Fences.
- D. Home occupations.

- E. Private garages and off-street parking.
- F. Except as otherwise limited, private recreational facilities, only accessory to an existing principal permitted use on the same lot and which are operated for the enjoyment and convenience of the residents of the principal use and their occasional guests.
- G. Radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Chapter 22 of this Ordinance.
- H. Recreational vehicles and equipment.
- I. State licensed in-home day care serving fourteen (14) or fewer persons in a single family detached dwelling.

**10-56-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-1 District. (Requires a conditional use permit based upon procedures set forth and regulated by Chapter 7 of this Ordinance.)

- A. Governmental and public related utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
  - 1. When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with Chapter 20 of this Ordinance.
  - 2. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.
- B. Personal wireless service towers and antennas not located on a public structure as regulated by Chapter 22 of this Ordinance.
- C. Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutions limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues provided that:
  - 1. Side yards shall be double that required for the district.
  - 2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Chapter 20 of this Ordinance.

3. Adequate off-street parking and access is provided on the site in compliance with Chapter 19 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Chapter 20 of this Ordinance.
4. Adequate off-street loading and service entrances are provided and regulated where applicable by Chapter 19 of this Ordinance.
5. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.

**10-56-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in the R-1 District and are governed by Chapter 7 of this Ordinance:

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
  1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
    - a. The quantity of material to be removed and the plan of operation
    - b. Compatibility with present and future land uses in the area.
    - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Farms, farmsteads, and farming.
- C. Interim home occupations as regulated by Chapter 21 of this Ordinance.

**10-56-6: LOT AREA AND SETBACK REQUIREMENTS:** The following minimum requirements shall be observed in an R-1 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

- A. Minimum Lot Sizes:
  1. Minimum Lot Area: Fourteen thousand (14,000) square feet.
  2. Minimum Lot Width: One hundred (100) feet.

- B. Principal Structure Setbacks:
  - 1. Front Yard: Thirty (30) feet.
  - 2. Street Side Yard: Twenty (20) feet.
  - 2. Side Yard: Ten (10) feet house, five (5) feet attached garage.
  - 3. Rear Yard: Thirty (30) feet.
- C. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance.
- D. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-56-7: LOT COVERAGE AND HEIGHT:** The following lot coverage and height requirements shall be observed in an R-1 District:

- A. Impervious surfaces shall not exceed thirty-five (35) percent of the total lot area.
- B. All residences shall be limited to a maximum height of three (3) stories or thirty-five (35) feet, whichever is less.
- C. Accessory uses as regulated by Chapter 18 of this Ordinance.



## CHAPTER 57

### R-2, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT

#### SECTION:

- 10-57-1: Purpose
- 10-57-2: Permitted Uses
- 10-57-3: Accessory Uses
- 10-57-4: Conditional Uses
- 10-57-5: Interim Uses
- 10-57-6: Lot Area and Setback Requirements
- 10-57-7: Lot Coverage and Height

**10-57-1 PURPOSE:** The purpose of the R-2, Urban Single Family Residential District is to provide for single and two family residential units.

**10-57-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in the R-2 District:

- A. Essential services.
- B. Personal wireless service antennas located upon a public structure, as regulated by Chapter 22 of this Ordinance.
- C. Public parks and playgrounds.
- D. Public and private schools.
- E. Religious institutions.
- F. Single family detached dwellings.
- G. State licensed residential care facilities serving six (6) or fewer persons.

**10-57-3: ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the R-2 District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim permit in this Ordinance.
- B. Fences.

- C. Permitted home occupations as regulated by Chapter 21 of this Ordinance.
- D. Private garages and off-street parking.
- E. Radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Chapter 22 of this Ordinance.
- F. Recreational vehicles and equipment.
- G. State licensed in-home day care serving fourteen (14) or fewer persons in a single family detached dwelling.

**10-57-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-2 District. (Requires a conditional use permit based upon procedures set forth and regulated by Chapter 6 of this Ordinance.)

- A. Governmental and public related utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
- B. Personal wireless service towers and antennas not located on a public structure as regulated by Chapter 22 of this Ordinance.
- C. Public or semi-public recreational buildings, neighborhood or community centers, charitable institutions, and other like facilities provided that side yards shall be double that required for the district.

**10-57-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in the R-2 District and are governed by Chapter 7 of this Ordinance:

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
  - 1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  - 2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
    - a. The quantity of material to be removed and the plan of operation.

- b. Compatibility with present and future land uses in the area.
  - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Farms, farmsteads, and farming.
- C. Interim home occupations as regulated by Chapter 21 of this Ordinance.

**10-57-6: LOT AREA AND SETBACK REQUIREMENTS:** The following minimum requirements shall be observed in an R-2 District subject to additional requirements, exceptions and modifications set forth in this Chapter.

- A. Minimum Lot Sizes:
  - 1. Minimum Lot Area:
    - a. Single Family: Ten thousand eight hundred (10,800) square feet.
    - b. Two Family: Fourteen thousand (14,000) square feet.
  - 2. Minimum Lot Width:
    - a. Single Family: Eighty (80) feet.
    - b. Two Family: One hundred (100) feet.
- B. Principal Structure Setbacks:
  - 1. Front Yard: Thirty (30) feet.
  - 2. Street Side Yard: Twenty (20) feet.
  - 3. Side Yard: Ten (10) feet house and five (5) feet attached garage.
  - 4. Rear Yard: Thirty (30) feet.
- C. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance.
- D. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-57-7: LOT COVERAGE AND HEIGHT:** The following lot coverage and height requirements shall be observed in an R-2 District:

- A. Impervious surfaces shall not exceed thirty-five (35) percent of the total lot area.
- B. All residences shall be limited to a maximum height of three (3) stories or thirty-five (35) feet, whichever is less.
- C. Accessory use height as regulated by Chapter 18 of this Ordinance.

## CHAPTER 58

### R-3, MEDIUM DENSITY RESIDENTIAL DISTRICT

#### SECTION:

- 10-58-1: Purpose
- 10-58-2: Permitted Uses
- 10-58-3: Accessory Uses
- 10-58-4: Conditional Uses
- 10-58-5: Interim Uses
- 10-58-6: Lot Area and Setback Requirements
- 10-58-7: Lot Coverage Height

**10-58-1: PURPOSE:** The R-3 District is intended to provide for Medium Density Residential housing, as described in the Comprehensive Plan. The district is appropriate for duplexes and townhomes.

**10-58-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in the R-3 District:

- A. Essential services.
- B. Personal wireless service antennas located upon a public structure, as regulated by Chapter 22 of this Ordinance.
- C. Public parks, playgrounds, and recreational uses.
- D. State licensed residential facilities serving up to sixteen (16) residents.
- E. Townhouses with not more than six (6) dwelling units per structure in a row or eight (8) units if back-to-back.
- F. Two family dwelling units.

**10-58-3: ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the R-3 District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim in this section, subject to applicable regulations of this Ordinance.
- B. Fences.

- C. Permitted home occupations as regulated by Chapter 21 of this Ordinance.
- D. Private garages and off-street parking.
- E. Radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Chapter 22 of this Ordinance.
- F. Recreational vehicles and equipment.
- G. State licensed day care facilities serving up to sixteen (16) persons.

**10-58-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-3 District. (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 7 of this Ordinance.)

- A. Governmental and public related utility buildings and structures necessary for the health, safety and general welfare of the City.
- B. Manufactured home parks as regulated by Section 4-4 of the City Code.
- C. Personal wireless service towers and antennas not located on a public structure as regulated by Chapter 22 of this Ordinance.
- D. Public and private schools.
- E. Religious institutions.

**10-58-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in the R-3 District and are governed by Chapter 7 of this Ordinance:

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
  - 1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  - 2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:

- a. The quantity of material to be removed and the plan of operation
  - b. Compatibility with present and future land uses in the area.
  - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Farms, farmsteads, and farming.
- C. Interim home occupations as regulated by Chapter 21 of this Ordinance.

**10-58-6: LOT AREA AND SETBACK REQUIREMENTS:** The following minimum requirements shall be observed in an R-3 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

- A. Lot Area:
  - 1. Two Family:
    - a. Minimum Lot Area Per Dwelling Unit: Seven thousand (7,000) square feet.
    - b. Minimum Total Lot Area: Fourteen thousand (14,000) square feet.
  - 2. Townhouses:
    - a. Minimum Lot Area Per Dwelling Unit: Five thousand (5,000) square feet.
    - b. Minimum Total Lot Area: Fifteen thousand (15,000) square feet.
- B. Lot Width: One hundred (100) feet.
- C. Setbacks:
  - 1. Site Periphery: Twenty-five (25) feet.
  - 2. From curb line of all internal roadways (public and private) providing direct access to units: Twenty-five (25) feet.
  - 3. Rear Yard: Twenty-five (25) feet.
  - 4. Building Separation: Twenty-five (25) feet.

- 5. From R-1 and R-2 Districts: Fifty (50) feet.
- D. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance.
- E. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-58-7: LOT COVERAGE AND HEIGHT:** The following requirements shall be observed in an R-3 District:

- A. Impervious surfaces shall not exceed fifty (50) percent of the site.
- B. All principal buildings shall be limited to a maximum height of three (3) stories or thirty-five (35) feet, whichever is less.
- C. Accessory uses shall be governed by Chapter 18 of this Ordinance.



## CHAPTER 59

### R-4, HIGH DENSITY RESIDENTIAL DISTRICT

#### SECTION

- 10-59-1: Purpose
- 10-59-2: Permitted Uses
- 10-59-3: Accessory Uses
- 10-59-4: Conditional Uses
- 10-59-5: Interim Uses
- 10-59-6: Lot Area and Setback Requirements
- 10-59-7: Lot Coverage Height

**10-59-1: PURPOSE:** The R-4 District is intended to provide for High Density Residential housing, as described in the Comprehensive Plan. The district is appropriate for apartments and condominiums.

**10-59-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in the R-4 District:

- A. Essential services.
- B. Multiple family dwellings with nine (9) or more units
- C. Personal wireless service antennas located upon a public structure, as regulated by Chapter 22 of this Ordinance.
- D. Public parks, playgrounds, and recreational uses.
- E. State licensed residential facilities serving up to sixteen (16) residents.

**10-59-3: ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the R-4 District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim in this section, subject to applicable regulations of this Ordinance.
- B. Fences.
- C. Non-commercial greenhouses, provided they do not exceed two hundred (200) square feet in area.

- D. Permitted home occupations as regulated by Chapter 21 of this Ordinance.
- E. Private garages and off-street parking.
- F. Radio and television receiving antennas including single satellite dish TVROs, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Chapter 22 of this Ordinance.
- G. Recreational vehicles and equipment.
- H. State licensed day care facilities serving up to sixteen (16) persons.

**10-59-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-4 District. (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 6 of this Ordinance.)

- A. Governmental and public related utility buildings and structures necessary for the health, safety and general welfare of the City.
- B. In-patient chemical dependency treatment center.
- C. Manufactured home parks, as regulated by Section 4-4 of the City Code.
- D. Nursing homes.
- E. Personal wireless service towers and antennas not located on a public structure as regulated by Chapter 22 of this Ordinance.
- F. Public and private schools.
- G. Religious Institutions.

**10-59-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in the R-4 District and are governed by Chapter 7 of this Ordinance:

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
  - 1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.

2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
  - a. The quantity of material to be removed and the plan of operation
  - b. Compatibility with present and future land uses in the area.
  - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Farms, farmsteads, and farming.
- C. Interim home occupations as regulated by Chapter 21 of this Ordinance.

**10-59-6: LOT AREA AND SETBACK REQUIREMENTS:** The following minimum requirements shall be observed in an R-4 District subject to additional requirements, exceptions and modifications set forth in this Chapter.

- A. Lot Area:
  1. Minimum Lot Area Per Dwelling Unit: Two thousand (2,000) square feet.
  2. Minimum Total Lot Area: Fifteen thousand (15,000) square feet.
- B. Lot Width: One hundred (100) feet.
- C. Setbacks:
  1. Front: Sixty (60) feet for buildings, thirty (30) feet for parking areas.
  2. Rear Yard: Twenty-five (25) feet.
  3. Side Yard: Twenty-five (25) feet.
  4. Building separation: Twenty-five (25) feet.
  5. From R-1 and R-2 Districts: Fifty (50) feet.
- D. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance.
- E. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-59-7: LOT COVERAGE AND HEIGHT:** The following requirements shall be observed in an R-4 District:

- A. Impervious surfaces shall not exceed fifty (50) percent of the site.
- B. All principal buildings shall be limited to a maximum height of three (3) stories or forty (40) feet, whichever is less.
- C. Accessory uses shall be governed by Chapter 18 of this Ordinance.

## SECTION 62

### B-1, CENTRAL BUSINESS DISTRICT

#### SECTION:

- 10-62-1: Purpose
- 10-62-2: Permitted Uses
- 10-62-3: Accessory Uses
- 10-62-4: Conditional Uses
- 10-62-5: Interim Uses
- 10-62-6: Lot Area and Setback Requirements
- 10-62-7: Building Height

**10-62-1: PURPOSE.** The purpose of the B-2, Downtown Business District is to provide for a mix of business and multi-family housing in the downtown area of the City. The Downtown Business District provides the broadest variety, highest density and greatest intensity of development within the City.

**10-62-2: PERMITTED USES.** Subject to applicable provisions of this Chapter, the following are permitted uses in the B-1 District:

- A. Banks and financial institutions.
- B. Clubs and lodges.
- C. Essential services.
- D. Hotel.
- E. Libraries.
- F. Liquor sales, off-sale.
- G. Liquor sales, on-sale.
- H. Municipal government and utility buildings.
- I. Office business, clinic.
- J. Office business, general.
- K. Pet shop.
- L. Personal service.
- M. Post office.

- N. Restaurants, cafes, and coffee shops.
- O. Retail businesses.
- P. Schools.
- Q. Service business, on-site.
- R. Temporary/seasonal outdoor sales as regulated by Section 10-17-13 of this Ordinance.
- S. Theaters.
- T. Brewpub (Ord. 206, SS 11/23/15)

**10-62-3: ACCESSORY USES.** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the B-1 District:

- A. Accessory outdoor dining.
- B. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim permit in this Ordinance.
- C. Off-street parking and off-street loading as regulated by Chapter 19 of this Ordinance.
- D. Permitted home occupations as regulated by Chapter 21 of this Ordinance.
- E. Play equipment accessory to a permitted use.
- F. Residential dwellings which do not occupy the ground floor space of a building.
- G. Secondary or accessory use antennas as regulated by Chapter 22 of this Ordinance.
- H. State licensed day care centers.

**10-62-4: CONDITIONAL USES.** Subject to applicable provisions of this Ordinance, the following are conditional uses in a B-1 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 7 of this Ordinance:

- A. Car sales.
- B. Parking ramp.

C. Recreational business.

**10-62-5: INTERIM USES.** Subject to applicable provisions of this Ordinance, the following are interim uses in a B-1 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 6 of this Ordinance.

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
    - a. The quantity of material to be removed and the plan of operation
    - b. Compatibility with present and future land uses in the area.
    - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Farms, farmsteads and farming.

**10-62-6: LOT AREA AND SETBACK REQUIREMENTS.** The following minimum requirements shall be observed in a B-1 District, subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Minimum Lot Area: None.
- B. Minimum Lot Width: None.
- C. Setbacks:
1. From Streets:
    - a. Collector or Arterial Streets: Ten (10) feet.
    - b. Local Streets: None, except that not less than eighty (80) percent of lot frontage shall be built out to the property line.
  2. Side Yards: None.
  3. Rear Yard: None.

D. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-62-7: BUILDING HEIGHT:**

A. Minimum Building Height: Twenty (20) feet.

B. Maximum Building Height: Three (3) stories or forty-five (45) feet, whichever is less.



## SECTION 63

### B-2, GENERAL BUSINESS DISTRICT

#### SECTION:

- 10-63-1: Purpose
- 10-63-2: Permitted Uses
- 10-63-3: Accessory Uses
- 10-63-4: Conditional Uses
- 10-63-5: Interim Uses
- 10-63-6: Lot Area and Setback Requirements
- 10-63-7: Building Height / Lot Coverage

**10-63-1: PURPOSE.** The purpose of the B-2, General Business District is to provide for higher intensity commercial uses primarily consisting of retail and service oriented business together with other inherently complementary and compatible uses. The uses in this District shall be generally dependent upon access and proximity to higher classification roadways and similar commercial uses. (Ord 206, SS 11/23/15)

**10-63-2: PERMITTED USES.** Subject to applicable provisions of this Ordinance, the following are permitted uses in the B-2 District:

- A. Banks and financial institutions.
- B. Chemical dependency treatment center.
- C. ~~Clubs and lodges.~~ (Ord 206, SS 11/23/15)
- D. Essential services.
- E. Garden supply stores.
- F. Hospitals.
- G. Hotels.
- H. Liquor sales, off-sale.
- I. Liquor sales, on-sale.
- J. Municipal government and utility buildings.
- K. Nursery, commercial.
- L. Nursing home.
- M. Office business, clinic.

- N. Office business, general.
- O. Personal service.
- P. Pet shop.
- Q. Post office.
- R. Recreational business.
- S. Restaurants, cafes, and coffee shops.
- T. Retail business.
- U. Schools.
- V. Service business, off-site.
- W. Service business, on-site.
- X. Temporary/seasonal outdoor sales as regulated by Section 10-17-13 of this Ordinance.
- ~~Y. Theaters.~~ (Ord 206, SS 11/23/15)
- Z. Veterinary clinics.
- AA. Brewpub (Ord. 206, SS 11/23/15)

**10-63-3: ACCESSORY USES.** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the B-2 District:

- A. Accessory outdoor dining.
- B. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim permit in this Ordinance.
- C. Keeping of animals subject to applicable provisions of the City Code.
- D. Off-street parking and off-street loading as regulated by Chapter 19 of this Ordinance.
- E. Play equipment accessory to a permitted use.
- F. Secondary or accessory use antennas as regulated by Chapter 22 of this Ordinance.



**10-63-4: CONDITIONAL USES.** Subject to applicable provisions of this Ordinance, the following are conditional uses in a B-2 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 6 of this Ordinance:

- A. Accessory outdoor sales/storage.
- B. Automobile repair, minor.
- C. Automobile sales.
- D. Automobile service station.
- E. Day care centers.
- F. Garage, public.
- G. Mortuaries and funeral parlors.
- H. Motor fuel station.
- I. Parking ramp.
- J. Truck stop.

**10-63-5: INTERIM USES.** Subject to applicable provisions of this Ordinance, the following are interim uses in a B-2 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 7 of this Ordinance.

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
  - 1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  - 2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
    - a. The quantity of material to be removed and the plan of operation
    - b. Compatibility with present and future land uses in the area.
    - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Farms, farmsteads and farming.

**10-63-6: LOT AREA AND SETBACK REQUIREMENTS.** The following minimum requirements shall be observed in a B-2 District, subject to additional requirements, exceptions and modifications set forth in this Chapter:

- A. Minimum Lot Area: Twenty thousand (20,000) square feet.
- B. Minimum Lot Width: One hundred (100) feet.
- C. Setbacks:
  - 1. From Streets:
    - a. Collector or Arterial Streets: Fifty (50) feet.
    - b. Local Streets: Twenty-five (25) feet.
  - 2. Side Yards: Ten (10) feet.
  - 3. Rear Yard: Twenty-five (25) feet.
  - 4. Setback from R-1 and R-2 Districts: Fifty (50) feet.
- D. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-63-7: BUILDING HEIGHT / LOT COVERAGE.**

- A. Maximum Building Height: Forty (40) feet.
- B. Maximum Impervious Surfaces: Eighty (80) percent.

## SECTION 64

### B-3, BUSINESS PARK DISTRICT

#### SECTION

- 10-64-1: Purpose
- 10-64-2: Permitted Uses
- 10-64-3: Accessory Uses
- 10-64-4: Conditional Uses
- 10-64-5: Interim Uses
- 10-64-6: Lot Area and Setback Requirements
- 10-64-7: Building Height / Lot Coverage

**10-64-1: PURPOSE.** The purpose of the B-3, Business Park District is to provide for a mix of compatible commercial, light industrial, and similar uses that are ideally situated near the periphery of primary commercial areas or in transitional areas. The uses in the District are limited to exclude the more intensive industrial uses and uses that require significant outdoor storage. The types of uses contemplated by this District include office and meeting space, warehousing, wholesaling, destination retail, light manufacturing, and other uses compatible and complementary to the District. (Ord 206, SS 11/23/15)

**10-64-2: PERMITTED USES.** Subject to applicable provisions of this Ordinance, the following are permitted uses in a B-3 District:

- A. Building material sales.
- B. Chemical dependency treatment center.
- C. Club or lodge.
- D. Commercial printing establishments.
- E. Conference centers and reception halls.
- F. Garden supply store.
- G. Hospital.
- H. Hotels.
- I. Liquor sales, on-Sale.
- J. Mortuaries and funeral parlors.

- K. Nursery, commercial.
- L. Nursing home.
- M. Office business, clinic.
- N. Office business, general.
- O. Personal service.
- P. Personal wireless service antennas located on a public structure or existing tower as regulated by Chapter 22 of this Ordinance.
- Q. Pet shop.
- R. Public buildings, uses, or utilities.
- S. Recreational business.
- T. Research, experimental, or testing laboratories.
- U. Restaurant.
- V. Retail business.
- W. Service business, off-Site.
- X. Service business, on-Site.
- Y. Temporary/seasonal outdoor sales as regulated by Section 10-17-13 of this Ordinance.
- Z. Veterinary clinic.
- AA. Wholesale showrooms/warehousing.
- BB. Clubs & Lodges
- CC. Hospitality Business
- DD. Religious Institution
- EE. Theater
- FF. Brewery with Taproom

GG. Microdistillery with Cocktail Room

**10-64-3: ACCESSORY USES.** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in a B-3 District:

- A. Accessory and secondary use antennas as regulated by Chapter 18 of this Ordinance.
- B. Off-street parking and loading as regulated by Chapter 19 of this Ordinance.
- C. Structures for a use accessory to the principal use provided such structure shall not exceed thirty (30) percent of the gross floor space of the principal use.

**10-64-4: CONDITIONAL USES.** Subject to applicable provisions of this Ordinance, the following are conditional uses in the B-3 District and require a conditional use permit based upon procedures set forth in Chapter 6 of this Ordinance:

- A. Automobile repair, major.
- B. Automobile repair, Minor.
- C. Automobile sales.
- D. Automobile service station.
- E. Commercial, private, and public satellite dish transmitting or receiving antennas greater than two (2) meters in diameter as regulated by Chapter 22 of this Ordinance.
- F. Essential services involving transmission pipelines and transmission or substation lines in excess of 35 kv and up to 100 kv, provided that the applicable provisions of Chapter 25 of this Ordinance are determined to be satisfied.
- G. Garage, public.
- H. Motor fuel station.
- I. Outdoor sale and rental as an accessory use provided that:
  - 1. The outside sales areas meet principal building setback requirements.
  - 2. Outside sales areas are landscaped and fenced or screened from view of neighboring residential uses or an abutting residential district.



3. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences.
  4. Areas are asphalt or concrete surfaced.
  5. The use does not take up parking space or loading areas as required for conformity to this Ordinance.
  6. Additional parking, pursuant to Chapter 19 of this Ordinance is provided for said space.
- J. Parking ramp.
- K. Personal wireless service antennas not located upon a public structure or existing tower as regulated by Chapter 22 of this Ordinance.
- L. Satellite antennas greater than two (2) meters in diameter as regulated by Chapter 22 of this Ordinance.
- M. Truck stop.

**10-64-5: INTERIM USES.** Subject to applicable provisions of this Ordinance, the following are interim uses in the B-3 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 7 of this Ordinance:

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
    - a. The quantity of material to be removed and the plan of operation
    - b. Compatibility with present and future land uses in the area.
    - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Farms, farmsteads and farming.

**10-64-6: LOT AREA AND SETBACK REQUIREMENTS.** The following minimum requirements shall be observed in a B-3 District, subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Lot Area: Twenty-five thousand (25,000) square feet.
- B. Lot Width: One hundred (150) feet.
- C. Setbacks:
  - 1. From Streets:
    - a. Collector or Arterial Streets: Fifty (50) feet.
    - b. Local Streets: Thirty-five (35) feet.
  - 2. Side Yards: Twenty (20) feet, except that side yards abutting a residential district shall be no less than twenty-five (25) feet.
  - 3. Rear Yards: Twenty-five (25) feet.
- D. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-64-8: BUILDING HEIGHT / LOT COVERAGE**

- A. Structures shall not exceed forty (40) feet in height.
- B. Impervious surfaces shall not exceed eighty (80) percent of the lot area.

## SECTION 71

### I-1, LIGHT INDUSTRIAL DISTRICT

#### SECTION:

- 10-71-1: Purpose
- 10-71-2: Permitted Uses
- 10-71-3: Accessory Uses
- 10-71-4: Conditional Uses
- 10-71-5: Interim Uses
- 10-71-6: Lot Area and Setback Requirements
- 10-71-7: Building Height / Lot Coverage

**10-71-1: PURPOSE.** The purpose of the I-1, Light Industrial District is to provide for the establishment of warehousing and light industrial development. Industrial uses allowed in this district shall be limited to those which can compatibly exist adjacent to both lower intensity business uses and high intensity manufacturing uses and which have limited amounts of truck traffic in comparison to higher intensity industrial districts. It is further the intent of this district that industrial development occur in an orderly, well planned manner at locations identified in the Comprehensive Plan where urban services are provided.

**10-71-2: PERMITTED USES.** Subject to applicable provisions of this Ordinance, the following are permitted uses in the I-1 District:

- A. Automobile repair, minor.
- B. Automobile service station.
- C. Contractor operations.
- D. Garage, public.
- E. Garden supply store.
- F. Machine shops.
- G. Manufacturing or assembly of a wide variety of products that produces no exterior noise, glare, fumes, obnoxious products, by-products or wastes, or creates other objectionable impact on the environment, including the generation of large volumes of traffic. Examples of such uses are:
  - 1. Fabrication or assembly of small products such as optical, electronic, pharmaceutical, medical supplies and equipment.

- 2. Printing and publishing.
- H. Motor fuel station.
- I. Offices, business or professional.
- J. Parking ramp.
- K. Public uses or utilities.
- L. Research, experimental or testing laboratories.
- M. Service business, off-site.
- N. Temporary/seasonal outdoor sales as regulated by Section 10-17-13 of this Ordinance.
- O. Veterinary clinic.
- P. Warehousing of non-explosive material or equipment.
- Q. Brewery
- R. Distillery  
(Ord 206, SS 11/23/15)

**10-71-3: ACCESSORY USES.** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the I-1 District:

- A. Accessory and secondary use antennas as regulated by Chapter 18 of this Ordinance.
- B. Commercial buildings and structures for a use accessory to the principal use shall be allowed if it does not exceed fifty (50) percent of the gross floor space of the principal use and shall be designed with the same material as the principal building.
- C. Off-street parking and loading as regulated by Chapter 19 of this Ordinance.

**10-71-4: CONDITIONAL USES.** Subject to applicable provisions of this Ordinance, the following are conditional uses in an I-1 District and require a conditional use permit based upon procedures set forth in Chapter 6 of this Ordinance:

- A. Accessory, enclosed retail, rental, or service activity other than that allowed as a permitted use or conditional use within this Section, provided that:
  - 1. Such use is allowed as a permitted use in a business district.
  - 2. Such use does not constitute more than fifty (50) percent of the gross floor area of the principal building.
  - 3. Adequate off-street parking and off-street loading in compliance with the requirements of Chapter 19 of this Ordinance.
  - 4. All signage and informational or visual communication devices shall be in compliance with the provisions of Chapter 23 of this Ordinance.
- B. Automobile repair, major.
- C. Commercial, private, and public satellite dish transmitting or receiving antennas greater than two (2) meters in diameter as regulated by Chapter 22 of this Ordinance.
- D. Open or outdoor service, sale and rental as a principal or accessory use provided that:
  - 1. Outside service areas are fenced and screened from view of the public right-of-way, neighboring residential uses, or an abutting residential district in compliance with Chapter 20 of this Ordinance.
  - 2. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with Section 10-16-8 of this Ordinance.
  - 3. The use does not take up parking space as required for conformity to this Ordinance.
  - 4. The sales area is hard surfaced to control dust.
- E. Open and outdoor storage as an accessory use provided that:
  - 1. The storage area is landscaped, fenced, and screened from view of neighboring uses and abutting residential districts.
  - 2. The storage is landscaped and screened from view from the public right-of-way.
  - 3. The storage area is surfaced with asphalt or concrete unless specifically approved by the City Council.

4. Lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences.
  5. The storage area does not take up parking space or loading space as required for conformity to this Ordinance.
  6. The storage area is not greater than 125% of the principal structures building footprint.
- F. Personal wireless service antennas not located upon a public structure or existing tower as regulated by Chapter 22 of this Ordinance.
- G. Satellite antennas greater than two (2) meters in diameter as regulated by Chapter 22 of this Ordinance.
- H. Truck stop.

**10-71-5: INTERIM USES.** Subject to applicable provisions of this Ordinance, the following are interim uses in the I-1 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 7 of this Ordinance:

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
    - a. The quantity of material to be removed and the plan of operation
    - b. Compatibility with present and future land uses in the area.
    - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Farms, farmsteads and farming.

**10-71-6: LOT AREA AND SETBACK REQUIREMENTS.** The following minimum requirements shall be observed in an I-1 District, subject to additional requirements, exceptions and modifications set forth in this Ordinance:

A. Lot Area: Twenty-five thousand (25,000) square feet.

B. Lot Width: One hundred fifty (150) feet.

C. Setbacks:

1. From Streets:

a. Collector or Arterial Streets: Fifty (50) feet.

b. Local Streets: Thirty-five (35) feet.

2. Side Yards:

a. Interior Lot: Twenty-five (25) feet.

b. Corner Lot: Thirty-five (35) feet.

3. Rear Yard: Twenty-five (25) feet.

**10-71-7: BUILDING HEIGHT / LOT COVERAGE.**

A. Structures shall not exceed thirty-five (35) feet in height.

B. Impervious surfaces shall not exceed eighty (80) percent of the lot area.

## CHAPTER 73

### I-3, ISOLATED INDUSTRIAL DISTRICT

#### SECTION

- 10-73-1: Purpose
- 10-73-2: Permitted Uses
- 10-73-3: Accessory Uses
- 10-73-4: Conditional Uses
- 10-73-5: Interim Uses
- 10-73-6: Lot Area and Setback Requirements
- 10-73-7: Building Height

**10-73-1: PURPOSE.** The general intent of this district is to accommodate industrial users that, due to the nature of their operations, must be isolated from urban areas.

**10-73-2: PERMITTED USES.** Subject to applicable provisions of this Ordinance, the following are permitted uses in the I-3 District:

- A. Essential services.
- B. Farms, farmsteads, farming and agricultural related buildings and structures subject to Minnesota Pollution Control Standards, but not including animal feedlots or other commercial operations.
- C. The manufacturing, storage, and testing of explosives and component parts of instruments used therewith, along with the installation and use of all equipment and buildings necessary therefore, all subject to State and Federal regulations pertaining thereto.

**10-73-3: ACCESSORY USES.** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the I-3 District:

- A. Accessory and secondary use antennas as regulated by Chapter 22 of this Ordinance.
- B. Off-street parking and loading as regulated by Chapter 19 of this Ordinance.



**10-73-4: CONDITIONAL USES.** Subject to applicable provisions of this Ordinance, the following are conditional uses in an I-3 District and require a conditional use permit based upon procedures set forth in Chapter 7 of this Ordinance:

- A. Commercial animal feedlots.
- B. Commercial, private, and public satellite dish transmitting or receiving antennas greater than two (2) meters in diameter as regulated by Chapter 22 of this Ordinance.
- C. Personal wireless service antennas not located upon a public structure or existing tower as regulated by Chapter 22 of this Ordinance.
- D. Satellite antennas greater than two (2) meters in diameter as regulated by Chapter 22 of this Ordinance.

**10-73-5: INTERIM USES.** Subject to applicable provisions of this Ordinance, the following are interim uses in the I-3 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 7 of this Ordinance:

- A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:
  - 1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
  - 2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
    - a. The quantity of material to be removed and the plan of operation
    - b. Compatibility with present and future land uses in the area.
    - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.
- B. Mining, sand and gravel extraction, land reclamation and alteration, provided that the use will be in compliance with the provisions in Chapter 32 of this Ordinance or other applicable provisions of the City Code.

**10-73-6: LOT AREA AND SETBACK REQUIREMENTS.** The following minimum requirements shall be observed in an I-3 District, subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Lot Area: Ten (10) acres.
- B. Lot Width: Three hundred thirty (330) feet.
- C. Front Yard Setbacks:
  - 1. From Streets:
    - a. County and State Highway: Seventy-five (75) feet.
    - c. Local Streets: Thirty-five (35) feet.
  - 2. Side Yards: Twenty (20) feet.
  - 3. Rear Yard: Thirty-five (35) feet.
  - 4. Wetland: Thirty (30) feet.

**10-73-7: BUILDING HEIGHT:** Structures shall not exceed thirty-five (35) feet in height.

## CHAPTER 75

### PUD, PLANNED UNIT DEVELOPMENT DISTRICT

#### SECTION:

- 10-75-1: Purpose
- 10-75-2: Application
- 10-75-3: Procedures

**10-75-1: PURPOSE:** The purpose of the PUD, Planned Unit Development District is to provide for the integration and coordination of land parcels as well as the combination of varying types of residential, commercial and industrial uses.

**10-75-2: APPLICATION:** All permitted, permitted accessory, or conditional uses contained in Section 51 through Section 72 of this Ordinance shall be treated as potentially permitted uses within a PUD District.

**10-75-3: PROCEDURE:** Whether requested as a rezoning or initially established by City action alone, a PUD District shall be established and governed subject to the amendment and procedure requirements as outlined in Chapter 10 of this Ordinance. A project shall be approved for rezoning as a Planned Unit Development only under the following conditions:

- A. The plan is not in conflict with the Comprehensive Plan of the City.
- B. The plan is designed to form a desirable and unified development within its own boundaries.
- C. The proposed uses will not be detrimental to present and future land uses in the surrounding area.
- D. Any exceptions to the standard requirements of this chapter and the Subdivision Regulations Chapter are justified by the design of the development.
- E. The plan will not create an excessive burden on parks, schools, streets, and other public facilities or utilities that are proposed to serve the Planned Unit Development.
- F. The PUD will not have an undue and adverse impact on the reasonable enjoyment of the adjoining properties.

## CHAPTER 76

### CO, CONSERVANCY DISTRICT

#### SECTION:

- 10-76-1: Purpose
- 10-76-2: Permitted Uses
- 10-76-3: Accessory Uses
- 10-76-4: Conditional Uses
- 10-76-5: Interim Uses
- 10-76-6: Lot Area, Density, and Setback Requirements
- 10-76-7: Building Height

**10-76-1: PURPOSE:** The general intent of the CO, Conservancy District is to preserve property for public open space and outdoor recreation.

**10-76-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in an CO District:

- A. Agricultural uses except feedlots.
- B. Conservation and protection of ground water recharge areas.
- C. Nature interpretive centers and other public buildings.
- D. Public open space and nature trails.
- E. Public parks and playgrounds.
- F. Wildlife sanctuaries.

**10-76-3: ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the CO District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, and interim permit in this Ordinance.
- B. Concession stands.
- C. Fences.

**10-76-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses allowed in an CO District: (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 6 of this Ordinance.)

A. Cemeteries, provided that:

1. The site accesses on a major collector.
2. The site is landscaped in accordance with Section 16 of this Ordinance.
3. The provisions of Chapter 6 of this Ordinance are considered and determined to be satisfied.

**10-76-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in the CO District and are governed by Chapter 7 of this Ordinance.

A. Excavation, filling, or grading of more than one hundred (100) cubic yards not related to an approved subdivision or site plan, provided that:

1. The use will be in compliance with the provisions of Chapter 31 of this Ordinance and other provisions of the City Code.
2. The interim use permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
  - a. The quantity of material to be removed and the plan of operation
  - b. Compatibility with present and future land uses in the area.
  - c. Compliance with the requirements of the Zoning Ordinance and conditions specific to the interim use permit approval.

**10-76-6: LOT AREA, DENSITY, AND SETBACK REQUIREMENTS:** The following minimum requirements shall be observed in the CO District, subject to additional requirements, exceptions and modifications set forth in this Chapter:

A. Principal Structure Setbacks:

1. Front Yard:
  - a. Seventy-five (75) feet from a collector or arterial street.

- b. Thirty-five (35) feet from a local street.
- 2. Side Yard: Ten (10) feet.
- 3. Rear Yard: Thirty-five (35) feet.
- B. Accessory structure setbacks as regulated by Chapter 18 of this Ordinance.
- C. Wetland setback for all structures: Thirty (30) feet from the delineated edge.

**10-76-7: BUILDING HEIGHT:** The following minimum requirements shall be observed in an CO District, subject to additional requirements, exceptions, and modifications set forth in this Chapter.

- A. The maximum height of all principal buildings shall not exceed three (3) stories or thirty-five (35) feet, whichever is greater.
- B. Accessory structures shall be governed by Chapter 18 of this Ordinance.

## **SECTION 81**

### **FP, FLOODPLAIN REGULATIONS**

#### **SECTION**

- 10-81-1: Statutory Authorization, Findings of Fact and Purpose
- 10-81-2: General Provisions
- 10-81-3: Establishment of Zoning Districts
- 10-81-4: Floodway District (FW)
- 10-81-5: Flood Fringe District (FF)
- 10-81-6: General Floodplain District (GFP)
- 10-81-7: Subdivisions: Land Suitability
- 10-81-8: Public Utilities, Railroads, and Bridges
- 10-81-9: Manufactured Home Parks – Development and Expansion
- 10-81-10: Administration
- 10-81-11: Administration and Enforcement
- 10-81-12: Violation a Misdemeanor
- 10-81-13: Amendments

#### **10-81-1: STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE:**

- A. Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of St. Francis, Minnesota, does ordain as follows.
- B. Purpose:
  - 1. This ordinance regulates development in the flood hazard areas of St. Francis, Minnesota. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
  - 2. National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 - 78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
  - 3. This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and Stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

- C. Methods Used to Analyze Flood Hazards. This Chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
- D. Statement of Purpose. It is the purpose of this Chapter to promote the public health, safety, and general welfare and to minimize those losses described herein.

**10-81-2: GENERAL PROVISIONS:**

- A. How to Use This Ordinance: This ordinance adopts the floodplain maps applicable to St. Francis and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.
  - 1. Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 10-81-4 or 10-81-5 will apply, depending on the location of a property.
  - 2. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 10-81-4 apply unless the floodway boundary is determined, according to the process outlined in Section 10-81-6. Once the floodway boundary is determined, the Flood Fringe District standards in Section 10-81-5 may apply outside the floodway.
- B. Lands to Which Ordinance Applies: This ordinance applies to all lands within the jurisdiction of the City of St. Francis shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.
  - 1. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.
- C. Incorporation of Maps by Reference: The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Anoka County, Minnesota, and Incorporated Areas and the Flood Insurance Rate Map panels enumerated below, all dated December 16, 2015 and all prepared by the Federal Emergency Management Agency. These materials are on file in the Office of the City Clerk.
  - 1. 27003C0020E
  - 2. 27003C0040E
  - 3. 27003C0045E
  - 4. 27003C0065E
  - 5. 27003C0070E



- D. Regulatory Flood Protection Elevation: The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- E. Interpretation: The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.
1. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
  2. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.
- F. Abrogation and Greater Restrictions: It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- G. Warning and Disclaimer of Liability: This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of St. Francis or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- H. Severability: If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.
- I. Definitions: Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.
1. Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
  2. Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.

3. Basement – any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
4. Conditional Use – a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
  - a. Certain conditions as detailed in the zoning ordinance exist.
  - b. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
5. Critical Facilities – facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.
6. Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
7. Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
8. Farm Fence – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.
9. Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
10. Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
11. Flood Fringe – that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Anoka County, Minnesota.

12. Flood Prone Area – any land susceptible to being inundated by water from any source (see “Flood”).
13. Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
14. Flood proofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
15. Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
16. Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor.
17. Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”
18. Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
19. One Hundred Year Floodplain – lands inundated by the “Regional Flood” (see definition).
20. Principal Use or Structure – all uses or structures that are not accessory uses or structures.
21. Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
22. Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is

designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

23. Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.
24. Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
25. Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
26. Special Flood Hazard Area – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”
27. Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 9.22 of this ordinance and other similar items.
28. Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
29. Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
  - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code

enforcement official and which are the minimum necessary to assure safe living conditions.

- b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

J. Annexations: The Flood Insurance Rate Map panels adopted by reference into Section 10-81-2C above may include floodplain areas that lie outside of the corporate boundaries of the City of St. Francis at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

### **10-81-3: ESTABLISHMENT OF ZONING DISTRICTS:**

#### **A. Districts:**

1. Floodway District. The Floodway District includes those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 10-81-2C. For lakes, wetlands and other basins (that do not have a floodway designated), the Floodway District includes those areas designated as Zone A on the Flood Insurance Rate Map that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
2. Flood Fringe District. The Flood Fringe District includes those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in Section 10-81-2C, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins (that do not have a floodway designated), the Flood Fringe District includes those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in Section 10-81-2C that are below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
3. General Floodplain District. The General Floodplain District includes those areas designated as Zone A on the Flood Insurance Rate Map adopted in Section 10-81-2C, but not subject to the criteria in sections 1 and 2 above.

- B. Compliance: Within the floodplain districts established in this ordinance, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment

facilities, and the subdivision of land must comply with the terms of this ordinance and other applicable regulations. All uses not listed as permitted uses or conditional uses in Sections 10-81-4, 10-81-5 and 10-81-6, respectively, are prohibited.

In addition, a caution is provided here that:

1. New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this ordinance and specifically Section 10-81-9.
2. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this ordinance and specifically Section 10-81-11.
3. All structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this ordinance and specifically as stated in Section 10-81-10 of this ordinance.
5. Critical facilities, as defined in Section 10-81-2-I-5, are prohibited in all floodplain districts.

#### **10-81-4: FLOODWAY DISTRICT (FW):**

- A. Permitted Uses: The following uses, subject to the standards set forth in Section 10-81-4-B, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
  2. Industrial-commercial loading areas, parking areas, and airport landing strips.
  3. Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
  4. Residential lawns, gardens, parking areas, and play areas.

5. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit, and that the standards in Sections 10-81-4-D-1, 10-81-4-D-3-a, and 10-81-4-D-6 of this ordinance are met.

B. Standards for Floodway Permitted Uses:

1. The use must have a low flood damage potential.
2. With the exception of the uses listed in Section 10-81-4-A-5, the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.
3. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

C. Conditional Uses: The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 10-81-4-D of this ordinance and further subject to the standards set forth in Section 10-81-4-D, if otherwise allowed in the underlying zoning district or any applicable overlay district.

1. Structures accessory to the uses listed in 10-81-4-A above and the uses listed in 10-81-4-C-2 through 10-81-4-C-7 below.
2. Extraction and storage of sand, gravel, and other materials.
3. Marinas, boat rentals, docks, piers, wharves, and water control structures.
4. Storage yards for equipment, machinery, or materials.
5. Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in section 10-81-2-l-8, are permitted uses.
6. Travel-ready recreational vehicles meeting the exception standards in Section 10-81-9-C.
7. Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. Standards for Floodway Conditional Uses:

1. All Uses. A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
2. Fill; Storage of Materials and Equipment:

- a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- b. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
- c. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

3. Accessory Structures:

- a. Accessory structures must not be designed for human habitation.
- b. Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
  - (1) Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and
  - (2) So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.
- c. Accessory structures must be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. All flood proofed accessory structures must meet the following additional standards:
  - (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and
  - (2) Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed.
- d. As an alternative, an accessory structure may be internally/wet flood proofed to the FP-3 or FP-4 flood proofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:
  - (1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the



structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

- (2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
4. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
5. A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
6. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

#### **10-81-5: FLOOD FRINGE DISTRICT (FF):**

- A. Permitted Uses: Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 10-81-5-B. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.
- B. Standards for Flood Fringe Permitted Uses:
  1. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
    - a. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
    - b. As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with Section 10-81-4-D-3-a.
  2. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 10-81-5-B-1 of this ordinance, or if allowed as a conditional use under Section 10-81-5-C-3 below.

3. The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
4. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
5. Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
6. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City Council.
7. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
8. Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.
9. Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
10. Manufactured homes and recreational vehicles must meet the standards of Section 10-81-9 of this ordinance.

C. Conditional Uses: The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 10-81-4-D of this ordinance. Conditional uses must meet the standards in Sections 10-81-5-B-4 through 10-81-5-B-10 and Section 10-81-5-D.

1. Any structure that is not elevated on fill or flood proofed in accordance with Section 10-81-5-B-1 of this ordinance.
2. Storage of any material or equipment below the regulatory flood protection elevation.
3. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 10-81-5-B-1 of this ordinance.

D. Standards for Flood Fringe Conditional Uses:

1. The standards listed in Sections 10-81-5-B-4 through 10-81-5-B-10 apply to all conditional uses.
2. Basements, as defined by Section 10-81-2-I-3 of this ordinance, are subject to the following:
  - a. Residential basement construction is not allowed below the regulatory flood protection elevation.
  - b. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 10-81-5-D-4 of this ordinance.
  - c.
3. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet flood proofed to the FP-3 or FP-4 classification are not permitted.
4. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
  - a. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
  - b. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.
  - c. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
  - d.
5. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
6. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it

is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

- a. Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
- b. Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
  - (1) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and
  - (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

#### **10-81-6: GENERAL FLOODPLAIN DISTRICT (GF):**

##### **A. Permitted Uses:**

1. The uses listed in Section 10-81-4-A of this ordinance, Floodway District Permitted Uses, are permitted uses.
2. All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 10-81-4-A. Section 10-81-4 applies if the proposed use is determined to be in the Floodway District. Section 10-81-5 applies if the proposed use is determined to be in the Flood Fringe District.

**B. Procedures for Floodway and Flood Fringe Determinations:**

1. Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
2. If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in 10-81-6-B-3 below.
3. The determination of floodway and flood fringe must include the following components, as applicable:
  - a. Estimate the peak discharge of the regional (1% chance) flood.
  - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
4. The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
5. Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 10-81-4 and 10-81-5 of this ordinance.

**10-81-7: LAND DEVELOPMENT STANDARDS**

- A. In General: Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of St. Francis.
- B. Subdivisions: No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured

home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

1. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
2. All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
3. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
4. In the General Floodplain District, applicants must provide the information required in Section 10-81-6-B of this ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.
5. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:
  - a. All such proposals are consistent with the need to minimize flood damage within the flood prone area,
  - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - c. Adequate drainage is provided to reduce exposure of flood hazard.

C. Building Sites: If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

1. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Constructed with materials and utility equipment resistant to flood damage;
3. Constructed by methods and practices that minimize flood damage; and
4. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**10-81-8: PUBLIC UTILITIES, RAILROADS, AND BRIDGES:**

- A. Public Utilities: All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be flood proofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- B. Public Transportation Facilities: Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 10-81-4 and 10-81-5 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. On-site Water Supply and Sewage Treatment Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this Section.

**10-81-9: MANUFACTURED HOME PARKS – DEVELOPMENT AND EXPANSION:**

- A. Manufactured Homes: New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:
  - 1. Placement or replacement of manufactured home units is prohibited in the Floodway District.
  - 2. If allowed in the Flood Fringe District, placement or replacement of manufactured home units is subject to the requirements of Section 10-81-5 of this ordinance and the following standards.
    - a. New and replacement manufactured homes must be elevated in compliance with Section 10-81-5 of this ordinance and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

- b. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 10-81-7-B-2.
- B. Recreational Vehicles: New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this ordinance.
  - 1. Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the following areas and meet the criteria listed in Section 10-81-9-B-2:
    - a. Individual lots or parcels of record.
    - b. Existing commercial recreational vehicle parks or campgrounds.
    - c. Existing condominium-type associations.
  - 2. Criteria for Exempt Recreational Vehicles:
    - a. The vehicle must have a current license required for highway use.
    - b. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
    - c. No permanent structural type additions may be attached to the vehicle.
    - d. The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
    - e. Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Section 10-81-9-B-2.
    - f. An accessory structure must constitute a minimal investment
  - 3. Recreational vehicles that are exempt in Section 10-81-9-B-2 lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and flood proofing requirements of Section 10-81-5 of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

#### **10-81-10: ADMINISTRATION:**

- A. Zoning Administrator: A Zoning Administrator or other official designated by the City Council must administer and enforce this ordinance.
- B. Permit Requirements:



1. Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:
  - a. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.
  - b. The use or change of use of a building, structure, or land.
  - c. The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this ordinance.
  - d. The change or extension of a nonconforming use.
  - e. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
  - f. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
  - g. Relocation or alteration of a watercourse - including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
  - h. Any other type of “development” as defined in this ordinance.
2. Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:
  - a. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
  - b. Location of fill or storage of materials in relation to the stream channel.
  - c. Copies of any required municipal, county, state or federal permits or approvals.
  - d. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
3. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.
4. Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood proofing measures must be certified by a registered professional engineer or registered architect.
5. Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are flood proofed.

6. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
7. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

C. Variances:

1. Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and Chapter 8 of the City Zoning Ordinance.
2. Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
3. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
  - a. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - b. Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
5. General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

- a. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
  - b. The danger that materials may be swept onto other lands or downstream to the injury of others;
  - c. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
  - d. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
  - e. The importance of the services to be provided by the proposed use to the community;
  - f. The requirements of the facility for a waterfront location;
  - g. The availability of viable alternative locations for the proposed use that are not subject to flooding;
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
  - i. The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
6. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
  7. Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
  8. Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

#### D. Conditional Uses:

1. Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Chapter 6 of the City Zoning Ordinance.
2. Factors Used in Decision-Making. In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 10-81-10-C-5 of this ordinance.

3. Conditions Attached to Conditional Use Permits. The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
  - a. Modification of waste treatment and water supply facilities.
  - b. Limitations on period of use, occupancy, and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.
  - d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
  - e. Flood proofing measures, in accordance with the State Building Code and this ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
4. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
5. Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

#### **10-81-11: ADMINISTRATION AND ENFORCEMENT:**

- A. Continuance of Nonconformities: A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 10-81-2-I-29-b of this ordinance, are subject to the provisions of Sections 10-81-11-A-1 to 10-81-11-A-7 of this ordinance.
  1. A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 10-81-11-A-2 below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
  2. Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4

flood proofing classifications) allowable in the State Building Code, except as further restricted in 10-81-11-A-3 and 10-81-11-A-7 below.

3. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, then the entire structure must meet the standards of Section 10-81-4 or 10-81-5 of this ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
4. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.
5. If any nonconformity is substantially damaged, as defined in Section 10-81-2128 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 10-81-4 or 10-81-5 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
6. If any nonconforming use or structure experiences a repetitive loss, as defined in Section 10-81-2125 of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.
7. Any substantial improvement, as defined in Section 10-81-2126 of this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 10-81-4 or 10-81-5 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

#### **10-81-12: VIOLATION A MISDEMEANOR:**

- A. Violation Constitutes a Misdemeanor: Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.
- B. Other Lawful Action: Nothing in this ordinance restricts the City from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.
- C. Enforcement: In responding to a suspected ordinance violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions

available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

1. When a violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as it is reasonably possible, this information will be submitted to the appropriate State Department of Natural Resources and Federal Emergency Management Agency regional office along with the city's plan of action to correct the violation to the degree possible.
2. The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the city. If the construction or development is already completed, the Zoning Administrator may either: 1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or 2) notify the responsible party to apply for an after the fact permit/development approval within a specified period of time not to exceed 30 days.

### **10-81-13: AMENDMENTS**

- A. Floodplain Designation – Restrictions on Removal: The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
- B. Amendments Require DNR Approval: All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.
- C. Map Revisions Require Ordinance Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 10-81-2-C of this ordinance.  
(Ord. 209, SS 12/07/15)

## CHAPTER 82

### RRM, RUM RIVER MANAGEMENT DISTRICT

#### SECTION

- 10-82-1: Purpose
- 10-82-2: Jurisdiction
- 10-82-3: Compliance
- 10-82-4: Land Use District Provisions
- 10-82-5: Uses Within the Scenic Land Use Districts
- 10-82-6: Sanitary Provisions
- 10-82-7: Landscape Alterations
- 10-82-8: Subdivisions
- 10-82-9: Administration

**10-82-1: PURPOSE:** This Chapter is adopted to: (1) establish a Scenic River District along the bluff land and shoreline of the Rum River as required by NR 2700; (2) regulate, within the Rum River land use district, the area of a lot, and the length of bluff land and water frontage suitable for building sites; (3) regulate the setback of structures and sanitary waste treatment facilities from bluff lines and shorelines to protect the existing and/or natural scenic values, vegetation, soils, water quality, structures or facilities; (4) regulate alterations of the natural vegetation and topography; (5) maintain property values and prevent poorly planned development; (6) conserve and protect the natural scenic values and resources of the Rum River and maintain a high standard of environmental quality; and, (7) comply with Minnesota Regulations NR 78-81 and NR 2700.

**10-82-2: JURISDICTION:** The jurisdiction of this Chapter shall include all lands designed within the Rum River land use district within the jurisdiction of St. Francis as defined in NR 2700.

**10-82-3: COMPLIANCE:** The use of any land within the Rum River land use district; the size and shape of lots; the use and water supply and waste disposal facilities; the filling, grading, lagooning, or dredging of any river area; the cutting of vegetation or alteration of the natural topography within the district; and the subdivision of land shall be in full compliance with the terms of this Chapter and other applicable regulations. Permits from the City are required by this Chapter and other applicable City Code provisions for the construction of buildings, public or private water supply and sewage treatment systems, the grading and filling of the natural topography and erection of signs within the Rum River land use district.

#### **10-82-4: LAND USE DISTRICT PROVISIONS:**

##### **A. Designation of Districts.**

1. In order to preserve and protect the Rum River and its adjacent lands which possess outstanding scenic, recreational, natural, historical, scientific and similar values, the Rum River in St. Francis has been given the Scenic River classification and the uses and classification of this river and its adjacent lands are hereby designated by land use zoning districts, the boundaries of which are based on the Rum River Management Plan, NR 2700.
  - a. The portion of the Scenic River Land Use District located within the following sections or portions thereof shall be classified as a Rural Area:
    - (1) N-1/2 Section 29 T34 R24
    - (2) S-1/2 Section 29 T34 R24 east of River only.
    - (3) NW-1/4 Section 28 T34 R24.
  - b. The remainder of the Scenic River Land Use District located in the City of St. Francis, Anoka County, Minnesota shall be classified as an Urban Area.
2. The boundaries of the Rum River Scenic Land Use Districts are as shown on the map designated as the St. Francis Official Zoning Map, which is made a part of this Chapter and is on file with the Administrator. In case of a conflict between the map and the property descriptions in NR 2700, the latter shall prevail. In cases where a lot to be developed is partially in the Scenic River Land Use Districts it shall comply with these regulations if more than one-half of the lot area is within the District.

##### **B. Minimum District Dimensional Requirements for Rural District.**

The following chart sets for the minimum area, setbacks and other requirements of the Rum River Rural Scenic District:

1. Minimum lot size <sup>1</sup>	Riparian lots 4 acres Non-riparian lots 2 ½ acres
2. Lot width at building site	300 feet
3. Lot width at ordinary high water mark	300 feet



- |  |          |
|--|----------|
| 4. Building setback from ordinary high water mark  | 150 feet |
| 5. Building setback from bluffline   | 30 feet  |
| 6. On-site sewage treatment system setback from ordinary high water mark                           | 100 feet |
| 7. Maximum structure height <sup>2</sup>   | 35 feet  |
| 8. Minimum of 1 acre buildable at proposed building site as specified in the Subdivision Ordinance |          |

<sup>1</sup> Smaller lot sizes may be permitted for planned unit developments

<sup>2</sup> Does not apply to buildings used primarily for agricultural purposes.

- C. Minimum District Dimensional Requirements for Urban District. The following chart sets forth the minimum dimensional requirements of the Urban Area of the Rum River Scenic District:

		Unsewered <u>Lots</u>	Sewered Riparian <u>Lots</u>	Sewered Non- Riparian <u>Lots</u>
1.	Lot size (in square feet)	43,560 SF	20,000 SF	12,150 SF
2.	Lot width at building setback line from River and water line	150 feet	90 feet	N/A
3.	Building setback from ordinary high water mark	100 feet	75 feet	N/A
4.	Lot width at building setback line off public street	200 feet	90 feet	90 feet
5.	Building setback from State and County Highways	75 feet	50 feet	50 feet
6.	Building setback from local streets	35 feet	35 feet	35 feet
7.	On-site sewage treatment system from ordinary high water mark	75 feet	N/A	N/A
8.	Maximum structure height <sup>1</sup>	35 feet	35 feet	35 feet

9.	Maximum total area of all impervious surface on each lot <sup>2</sup>	30%	30%	30%
10.	Impervious surface setback from ordinary high water mark <sup>3</sup>	50 feet	50 feet	50 feet

<sup>1</sup> Does not apply to buildings used primarily for agricultural purposes.

<sup>2</sup> Includes all structures, surfaced roads, parking lots, and other surfaced areas.

<sup>3</sup> Applies to all surfaced roads or parking lots.

#### D. Structure Placement.

1. No structure shall be placed on any slope greater than twelve (12) percent (twelve [12] vertical rise in one hundred [100] feet horizontal distance) unless such structures can be screened from river view with natural vegetation. Where practicable, sewage disposal system facilities can be installed so as to comply with the Sanitary Provisions of Section 10-82-6 and the building permit applicant can prove to the Administrator that any potential erosion or sedimentation problems related to locating such a structure either do not exist, or that adequate measures will be taken to prevent such problems through special construction methods.
2. No structures shall be placed in any floodway. Structures proposed within a floodplain shall be consistent with the City or Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota. (Minnesota Regulations NR 85-93).

#### E. Substandard Lots.

1. Lots of record in the office of the County Recorder on the effective date of this Chapter which do not meet the dimensional requirements of this Chapter shall be allowed as building sites; provided, such use is permitted in the land use district; the lot was in separate ownership on the effective date of this Chapter; and all sanitary and dimensional requirements of this Chapter are to be complied with as far as practicable.
2. If in a group of contiguous lots under single ownership, any individual lot does not meet the lot width requirements of this Chapter, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land each meeting the lot width requirements of this Chapter. Such lots which meet or exceed 60% or more of the lot width standard of these regulations may be considered as a separate parcel of land for the

purpose of sale and development, if on-site sewage disposal systems can be installed so as to comply with these regulations.

**10-82-5: USES WITHIN THE SCENIC LAND USE DISTRICTS:**

- A. Purpose. The purpose of establishing standards and criteria for uses in the Rum River Land Use Districts shall be to protect and preserve existing natural, scenic, historical, scientific, and recreational values to maintain proper relationships between various land use types, and to prohibit new residential, commercial, or industrial uses that are inconsistent with the Statewide Standards and Criteria for Wild and Scenic River, NR 78-81, and NR 2700.
- B. Uses in the Urban District. The urban area of the Scenic River Land Use District is hereby designated the Urban Area Overlay District.
  - 1. Permitted Uses. All permitted uses allowed and regulated by the applicable zoning district underlying the Urban Area Overlay District, as indicated on the Official Zoning Map, are permitted in the Urban District except that public roads, utility crossings, and all private and commercial recreation uses shall be special uses.
- C. Special Uses in the Urban District. All special uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying the Urban Area Overlay District, as indicated on the Official Zoning Map, are provided for under the terms of this Chapter.
- D. Uses in the Rural District. Uses in the Rural Area of the Scenic River Land Use District, shall be those prescribed by Minnesota Regulations NR79 (b) which includes single family dwellings, agricultural uses, public recreational uses, essential services and forestry uses.
- E. Other Uses Not Listed. All uses not covered by the above referenced regulation shall not be allowed within the applicable land use district without an amendment to the management plan to provide for such use.

**10-82-6: SANITARY PROVISIONS:**

- A. Sewage Disposal. Any new dwelling intended for human occupancy must provide for an adequate method of sewage treatment. Public or municipal collection and treatment facilities must be used where available and feasible. Where public or municipal facilities are not available, all new on-site individual sewer treatment systems shall conform to the minimum standards and administrative procedures set forth in other applicable City Code provisions, the minimum standards of the Minnesota Pollution Control Agency (6MCAR §4.8040) and this Chapter.

- B. Permit Required. It is unlawful for any person to install, alter, repair, or extend any individual sewage disposal system without first obtaining a permit for such action from the City for the specific installation, alteration, repair or extension. Prior to issuance of any such permit, the City shall require that percolation-rate tests and, at the discretion of the Building Official, soil boring tests be done on the proposed site for an individual sewer disposition to determine whether or not the site is capable of supporting a conforming sewage treatment system.
- C. Water Supply. Any new public or new private supply of water for domestic purpose must conform to Minnesota Department of Health standards for water quality and the administrative procedures of other applicable City Code provisions.

**10-82-7: LANDSCAPE ALTERATIONS:**

- A. Vegetative Cutting. Within the applicable building setback areas (including bluffline setback areas), clear cutting of trees over four inches in diameter, except for authorized public services, shall be prohibited. All vegetative cutting in the Rum River Scenic District shall comply with the conditions of Minnesota Regulations NR 79 (g) (1) (bb), (cc) and (2).
- B. General Provisions within Designated Setback Areas.
  - 1. Clear cutting, except for any authorized public services such as roads and utilities, shall not be permitted.
  - 2. Selective cutting of trees in excess of four inches in diameter at breast height shall be permitted providing cutting is spaced in several cutting operations and a continuous tree cover is maintained.
  - 3. The cutting provisions of Section 10-82-7.A of this Ordinance, shall not be deemed to prevent:
    - a. The removal of diseased or insect-infested trees, or of rotten or damaged trees that present safety hazards.
    - b. Pruning under story vegetation, shrubs, plants, brushes, grasses, or from harvesting crops or cutting suppressed trees or trees less than four inches in diameter at breast height.
- C. Clear Cutting. Clear cutting anywhere in the designated land use district on the Rum River is subject to the following standards and criteria:
  - 1. Clear cutting shall not be used as a cutting method where soil, slope, or other watershed conditions are determined by the Administrator to be fragile and subject to erosion and/or sedimentation.

2. Clear cutting shall be conducted only where clear-cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain.
  3. The size of clear-cut blocks, patches or strips shall be kept at the minimum necessary.
  4. Where feasible, all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same spring, or the following spring.
- D. Grading, Filling, Alterations of the Beds of Public Waters. Any grading and filling work done within the designated land use district of this Chapter shall require a permit and shall comply with the following:
1. Grading and filling of the natural topography which is not accessory to a permitted or special use shall not be permitted in the land use district.
  2. Grading and filling of the natural topography which is accessory to a permitted or special use shall not be conducted without a grading or filling permit from the City. A grading and filling permit may be issued only if the conditions of this subdivision are properly satisfied.
  3. Grading and filling of the natural topography which is accessory to a permitted or special use shall be performed in a manner which minimizes earthmoving, erosion, tree clearing, and the destruction of natural amenities.
  4. Grading and filling of the natural topography shall also meet the following standards:
    - a. The smallest amount of bare ground is exposed for as short a time as feasible.
    - b. Temporary ground cover such as mulch is used and permanent ground cover is planted.
    - c. Methods to prevent erosion and to trap sediment are employed.
    - d. Fill is stabilized to accepted engineering standards.
- E. Permit Required. Any activity which will change or diminish the course, current or cross-current of any public waters, including but not limited to, filling, excavation or placing of any materials in or on the beds of public waters is prohibited unless

authorized by a permit from the Commissioner of Natural Resources pursuant to Minnesota Statutes Section 105.42.

- F. Wetlands. Drainage or filling in of wetlands types 3, 4, 5, which are 2.5 acres in size or larger shall not be allowed within the land use district designated by this Chapter.
- G. Utility Transmission Lines. All utility transmission crossings of land within the Rum River Land Use District shall require a special use permit. The construction of such transmission services shall be subject to the standards and criteria of Minnesota Regulations NR (i) 2. With respect to electric power utility transmission crossings, a special use permit shall be required for crossings of 69 kilo-volts thru 199 kilo-volts. No special use permit shall be required for high voltage (200 kilo-volts or greater) transmission lines under control of the Environmental Quality Board pursuant to Minnesota Statutes Section 116C.61. However, lines of 200 kilo-volts or more which are exempt by the Environmental Quality Board shall require a special use permit.
- H. Public Roads. In addition to such permits as may be required by Minnesota Statutes Section 105.42, a special use permit shall be required for any construction or reconstruction of public roads within the Rum River Land Use District. Such construction or reconstruction shall be subject to the standards and criteria of Minnesota Regulations NR 79 (j) (2), and City Street and Road Standards as adopted by the Council. A special use permit is not required for minor public streets which are streets intended to serve primarily as an access to abutting properties; however, all streets shall be constructed or reconstructed to comply with City Street and Road Standards. Public roads include County and City roads and highways, which serve or are designed to serve flows of traffic between communities or other traffic generating areas.

#### **10-82-8: SUBDIVISIONS:**

- A. Land Suitability. No land shall be subdivided which is determined by the City or the Commissioner to be wholly unsuitable by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the community. Percolation-rate tests and soil boring tests shall be required as deemed necessary by the City Engineer, to be done by the subdivider, and their results submitted to the Administrator to assure that each lot in the proposed subdivision is capable of supporting an on-site sewage treatment system of the type recommended by the Minnesota Pollution Control Agency's standards for individual sewage treatment systems. In subdividing the land within the Scenic River District the lot dimension shall be the gross land area of the lot. The developer must provide evidence to the City that a suitable building site exists

that is free of restricting characteristics and complies with all applicable City Code provisions. The provisions elsewhere set forth in this Chapter and in other applicable City Code provisions shall apply to all plats and subdivisions within the Rum River Scenic River District.

- B. **Planned Unit Developments.** A planned unit development may be allowed in the Scenic River Urban District if preliminary plans are first approved by the Commissioner and the applicable provisions of the Minnesota Regulations NR 78-84 pertaining to such development are satisfied. Cluster developments may be allowed in the Scenic River Rural District if preliminary plans are first approved by the Commissioner and the applicable provisions of Minnesota Regulations NR 78-84 pertaining to such developments are satisfied.

#### **10-82-9: ADMINISTRATION:**

- A. **Organization Provisions.** The provisions of this Chapter shall be administered by the Administrator in accordance with the requirements of the Zoning Chapter except where superseded by more restrictive requirements of this Chapter. The Council shall act upon all questions as they arise in the administration of this Chapter; to hear and decide appeals; and to review any order, requirements, decisions or determination as provided by Minnesota Statutes.
- B. **Fees.** Permit fees and inspection fees shall be established by resolution of the Council and shall be collected by the City for deposit and credited to the general fund.
- C. **Non-Conforming Uses; Substandard Uses.**
  - 1. **Non-Conforming Uses.** Uses which are prohibited by this Chapter but which are in existence prior to the effective date of this Chapter shall be non-conforming uses. Such uses shall not be intensified, enlarged, or expanded.
  - 2. **Non-Conforming Private Sanitary Sewer Systems.** All private sanitary sewer systems inconsistent with the performance standards of the Sanitary Sewer provisions and the minimum standards of the Minnesota Pollution Control Agency and the Minnesota State Plumbing Code within the Rum River Scenic River District shall be brought into conformity or discontinued within five (5) years of the effective date of this Chapter.
  - 3. **Substandard Uses.** All uses in existence prior to the effective date or amendment of this Chapter which are permitted uses within the newly established land use district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this Chapter are substandard uses. All substandard uses, except for substandard signs,

shall be allowed to continue subject to the following conditions and exceptions:

- a. Any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.
- b. Substandard signs shall be gradually eliminated over a period of time not to exceed five (5) years from the effective date of this Chapter.
- c. Where a setback pattern from the ordinary high water mark has already been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern.

D. Variance. The granting of a variance requires the presence of all the following conditions:

1. The strict enforcement of the land use controls will result in unnecessary hardship.
2. Granting of the variance is not contrary to the purpose and intent of the zoning provisions herein established by these standards and criteria, and is consistent with NR 2700.
3. There are exceptional circumstances unique to the subject property which were not created by the landowners.
4. Granting of the variance will not allow any use which is neither a permitted or special use in the land use district in which the subject property is located.
5. Granting of the variance will not alter the essential character of the locality as established by the Management Plan, NR 2700.

E. Plats.

1. Copies of all plats within the boundary of the Rum River Land Use District shall be forwarded to the Commissioner within ten (10) days of final approval by the City.
2. Inconsistent Plat. Approval of a plat which is inconsistent with this Chapter is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal. All inconsistent plats approved by the City shall be certified in accordance with Section 10-82-9.H of this Ordinance.



- F. Amendments. This Chapter may be amended whenever the public necessity and the general welfare require such amendments by the procedure specified in this Subdivision. Amendments to this Chapter must be certified by the Commissioner as specified in Subdivision 8 of this Section. Amendments of this Chapter may be initiated by a petition to the Planning Commission or by action of the Council. An application for and amendment shall be filed with the Administrator. Upon receipt in proper form of the application and other requested materials, the Planning Commission shall conduct a public hearing in the manner prescribed by Minnesota Statutes. Within sixty (60) days following the public hearing, the Council shall make a report of its recommendation on the proposed amendment and shall file a copy with the Commissioner. Certification from the Commissioner must be obtained as specified in this Chapter before the proposed amendment becomes effective.
- G. Special Use Permit Review. A copy of all notice of any public hearing, or where a public hearing is not required, a copy of the application to consider issuance of a special use permit shall be received by the Commissioner at least thirty (30) days prior to such hearings or meetings to consider issuance of a special use permit. A copy of the decision shall be forwarded to the Commissioner within ten (10) days of such action. Special use permits relating to private or commercial recreational development must be certified in accordance with Section 10-82-9.H of this Ordinance.
- H. Certification.
1. Certain land use decisions which directly affect the use of land within the designated land use district and involve any of the following actions must be certified by the Commissioner:
    - a. Adopting or amending an ordinance including rezoning of particular tracts of land.
    - b. Granting a variance from a provision of this Chapter which relates to the zoning dimension provisions of Section 9.10 and any other zoning dimensions provisions established by NR 2700.
    - c. Approving a plat which is inconsistent with this Chapter.
    - d. Granting a special use permit for a private or commercial recreational development.
  2. Certification Procedure.
    - a. A copy of all notices of any public hearings or where a public hearing is not required, a copy of the application to consider zoning amendments, variances, or inconsistent plats by ordinance shall be received by the Commissioner at least thirty (30) days prior to such

hearings or meetings to consider such actions. The notice or application shall include a copy of the proposed ordinances or amendment, or a copy of the proposed inconsistent plat, or a description of the requested variance.

- b. The Council shall notify the Commissioner of its decision on the proposed action within ten (10) days of the decision.
- c. The action becomes effective when either:
  - (1) The final decision taken by the City has previously received certification of approval from the Commissioner; or,
  - (2) The City received certification of the approval after its final decision; or,
  - (3) Thirty (30) days have elapsed from the day the Commissioner received notice of the final decision, and the City has received from the Commissioner neither certification of approval nor notice of non-approval; or,
  - (4) The Commissioner certifies his approval within thirty (30) days after conducting a public hearing.
- d. In case the commissioner give notice of non-approval of an ordinance, variance or inconsistent plat, either the applicant or the Council may within thirty (30) days of said notice, file with the Commissioner a request for hearing. If the demand for hearing is not made within thirty (30) days, the notice of non-approval becomes final. Where a hearing is requested it shall be:
  - (1) The hearing will be held in the City within sixty (60) days of the demand and after at least two (2) weeks published notice.
  - (2) The hearing will be conducted in accordance with Minnesota Statutes 105.44, Subdivisions 5 and 6 (1971) as amended.
  - (3) The Commissioner shall certify his approval or disapproval of the proposed action within thirty (30) days of the hearing.

- I. Permits. The following table summarizes the permit and certification process within the land use districts designated by this Chapter:

<u>Land Use District Permits</u>	<u>Action Necessary</u>
Building Permits	LP
Sign Construction Permits	LP
Septic Permits	LP
Water Supply Permits	LP
Grading, Filling Permits	LP
Special Use Permit, General Special Use	PH-FD
Special Use Permits for Private Recreational Developments	PH-CC
Amendments to this Chapter	PH-CC
Amendments to District Boundary	PH-CC
Inconsistent Plats	PH-CC
Planned Unit Developments	PH-WA
Variances	PH-CC
Plats	PH (Notification Not Required)-FD

LP – Permit issued by the Council in accordance with this Chapter and all other City Code provisions.

CC – Certifications by the Commissioner of Natural Resources prior to final local approval.

PH – Public hearing necessary by the Council giving thirty (30) days notice of the hearing to the Commissioner of Natural Resources.

FD – Council forwards any decisions to the Commissioner of Natural Resources within ten (10) days after taking final action.

WA – The Commissioner of Natural Resources shall submit, after notice of public hearing and before the Council give preliminary approval, a written review and approval or denial of the project.

## CHAPTER 91

### WETLAND IMPACTS

#### SECTION:

- 10-91-1: Purpose
- 10-91-2: Scope
- 10-91-3: General Wetland Requirements
- 10-91-4: Wetland Management Plan
- 10-91-5: Review
- 10-91-6: Modification of Plan
- 10-91-7: Financial Securities
- 10-91-8: Right of Entry and Inspection
- 10-91-9: Notification of Failure of the Wetland Management Plan
- 10-91-10: Variance
- 10-91-11: Enforcement
- 10-91-12: Abrogation and Greater Restrictions
- 10-91-13: Severability

**10-91-1: PURPOSE:** The purpose of this ordinance is to control or minimize impacts to wetlands. In addition, storm water pollution along with soil erosion and sedimentation shall be controlled to preserve wetlands within the City. It establishes standards and specifications for conservation practices and planning services, which minimize wetland impacts.

**10-91-2: SCOPE:** Except where a variance is granted, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity within the city that is adjacent to a wetland or wetlands shall submit to the City, for approval, a Wetland Management Plan, as required by this Ordinance. No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth herein.

**10-91-3: GENERAL WETLAND REQUIREMENTS:** Every applicant for a building permit with twenty thousand (20,000) square feet or more of land disturbance, subdivision approval, or a permit to allow for excavation, filling, grading, or other such activity, when adjacent to, abutting, or on a parcel containing a wetland, must submit a Wetland Management Plan to the City Engineer for review and approval. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until the City approves this plan. At a minimum these pollution abatement control practices must conform to those in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas".

- A. The requirements of this ordinance are in addition to, and consistent with the Minnesota Wetland Conservation Act of 1991 and subsequent amendments and associated rules. All provisions of the act must be strictly adhered to.
- B. Runoff must not be discharged directly into wetlands without appropriate quality and quantity runoff control, depending on the individual wetland's vegetation. See the current version of the Minnesota Pollution Control Agency's publication, "Storm Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm Water and Snow Melt Runoff on Wetlands" for guidance.

**10-91-4: WETLAND MANAGEMENT PLAN:** Every applicant for a building permit with twenty thousand (20,000) square feet or more of land disturbance, subdivision approval, or a permit to allow for excavation, filling, grading, or other such activity, when adjacent to, abutting, or on a parcel containing a wetland, must submit a Wetland Management Plan to the City Engineer for review and approval. At a minimum these pollution abatement control practices must conform to those in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas".

- A. **The Wetland Management Plan and the Grading Plan.** The wetland management plan measures and limits the area of disturbed surface and identifies the location of buffers. All land disturbance activities and buffers shall be marked on the approved grading plan, and identified with flags, stakes, signs, fences, etc. on the development site before work begins.
- B. **Inspections of the Wetland Management Plan Measures.** At a minimum such inspections shall be done monthly to assure protection of the wetland and surrounding buffer.
- C. **Minimum Requirements of the Wetland Management Plan.**
  - 1. This plan is a supplement to the required Stormwater Pollution Prevention Plan. The requirements of the SWPPP are identified in Chapter 93 of this Ordinance.
  - 2. Phasing of construction: time frames and schedules for the construction in the vicinity of the wetlands.
  - 3. A map of the existing wetlands and existing native buffers.
  - 4. A site construction plan that includes the proposed land disturbing activities, stockpile locations, erosion and sediment control plan, construction schedule, and the plan for the maintenance and inspections of the wetland management plan's measures.

5. Designate the site's areas that have the potential for serious erosion problems that may impact the wetlands on or adjacent to the site.
6. Permanent stabilization: The plan shall establish the manner in which buffer areas will be stabilized after construction is completed, including buffer width and type of vegetation, specifications, time frames or schedules, and maintenance procedures.
7. Buffer widths shall be dependent on the priority of the wetland as addressed in the "Wetland Standards" Amendment to the Upper Rum River Watershed Management Organization (URRWMO) Watershed Management Plan. The priority of the wetland is determined by the MnRAM criteria provided in the Amendment.
  - a. A copy of the referenced Amendment will be made available upon request.
  - b. A summary of the Wetland Classifications are provided below.

<b>Wetland Classes</b>	<b>Purpose</b>
High Priority Wetlands	Wetlands that highly serve both water quality treatment and wildlife habitat target functions
Moderate Priority Wetlands	Wetlands that highly serve one of the two above reference target functions
Low Priority Wetlands	Wetlands that do not highly perform either of the target functions
Use Wetlands	Wetlands created for stormwater management

- c. A summary of the required buffer widths are provided below.

<b>Wetland Classes</b>	<b>Minimum Buffer Width</b>
High Priority Wetlands	25 feet
Moderate Priority Wetlands	20 feet
Low Priority Wetlands	15 feet
Use Wetlands	15 feet

8. Buffer widths for wetlands on or adjacent to a site shall meet or exceed the above mentioned criteria. At the minimum a fifteen (15) foot wide

protective buffer strip of, if possible, predevelopment vegetation shall surround all wetlands. Native vegetation is recommended.

- a. Detailed buffer design shall be site specific.
  - b. For newly constructed buffers site specific design criteria should follow common principles and the example of nearby natural areas. The site should be examined for existing buffer zones and mimic the nearby slope structure and vegetation as much as possible. Buffer design and protection during construction should do any or all of the following: slow water runoff, trap sediment, enhance water filtration, trap fertilizers, pesticides, pathogens, heavy metals, trap blowing snow and soil, and act as corridors for wildlife. How much stress is put on these functions will determine the buffer zone's final configuration. The Minnesota Department of Natural Resources requires permits when vegetation is introduced downgrade of a water's "ordinary high water mark". The Minnesota Department of Natural Resources' area hydrologist defines the ordinary high water mark. Planting permits are obtained from the Minnesota Department of Natural Resources' regional fisheries office.
  - c. The applicant and/or property owner shall maintain the buffer strip.
  - d. Drain tiles on the development site shall be identified and rendered inoperable.
  - e. Buffer strips may be made into perpetual conservation easements.
  - f. Buffer strips shall be marked as such with permanent signs.
9. Wetlands must not be drained or filled, wholly or partially, unless replaced by either restoring or creating wetland areas in accordance with WCA requirements.
- a. Avoid the direct or indirect impact of the activity that may destroy or diminish the wetland.
  - b. Minimize the impact by limiting the degree or magnitude of the wetland related activity and its implementation.
  - c. Rectify the impact by repairing, rehabilitating, or restoring the affected wetland environment with one of at least equal public value.
  - d. Reduce or eliminate the adverse impact over time by preservation and maintenance operations during the life of the activity.

- e. Compensating for the impact by replacing or providing substitute wetland resources or environments with those of at least equal public value.
  - f. Compensation, including the replacement ratio and quality of replacement should be consistent with the requirements outlined in the rules adopted by the Board of Water and Soil Resources to implement the Wetland Conservation Act of 1991 including any and all amendments to it.
10. The water level fluctuation of a wetland or pond shall be maintained consistent with the management function of the water body. Wetlands used for stormwater overflow purposes shall be limited to a maximum bounce of two (2) feet between the NWL and HWL.

**D. General Wetland Management Plan Criteria.** The plan shall address the following:

- 1. This plan is a supplement to the required Stormwater Pollution Prevention Plan. The requirements of the SWPPP are identified in Chapter 93 of this Ordinance.
- 2. Establishing permanent vegetation and the related time frame or schedule.
- 3. Preventing sediment damage to adjacent wetlands and other designated areas such as streams, wetlands, lakes and unique vegetation (e.g., oak groves, rare and endangered species habitat.)
- 4. The location of permanent and temporary sedimentation basins.
- 5. Precautions to be taken to contain sediment when working in or crossing water bodies.
- 6. The maintenance of temporary and permanent erosion and sediment control practices.

**E. Minimum Wetland Management Plan Measures and Inspection.** These minimum control measures are required where land disturbance activities are adjacent to wetlands. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the City Engineer. The City will determine what action is necessary to prevent wetland impacts from occurring on the site. The plan shall address the following:



1. This plan is a supplement to the required Stormwater Pollution Prevention Plan. The requirements of the SWPPP are identified in Chapter 93 of this Ordinance.
2. All grading plans and building site surveys shall be reviewed by the City for effectiveness of erosion control measures protecting the wetland in the context of the site topography and drainage.
3. Sediment control measures shall be properly installed by the applicant/contractor before construction activity begins. Such structures may be adjusted during dry weather to accommodate short term activities, such as those that require very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the configuration specified by the City. An inspection to confirm compliance shall be scheduled, and passed before a footing inspection will be done.
4. Minimize amount of exposed soil.
5. Minimize disturbance of vegetation adjacent to wetlands to provide wider buffers through the majority of construction.
6. Locate stockpiles in areas a safe distance from existing wetlands and other native buffer areas.
7. Monthly inspections of all wetland buffers will be required when construction activities are occurring to assist in preserving the buffer area and assuring proper establishment/preservation of the vegetation.
8. Follow-up inspections must be performed by the City on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant and/or builder to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, a stop work order may be issued by the City Engineer or Building Official, until erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.
9. The delineated wetland and associated buffer area shall be contained entirely within an outlet that is owned by the City or drainage and utility easement in favor of the City.

F. **Models / Methodologies Computations.** Hydrologic models and design methodologies used for determining runoff characteristics and analyzing storm water management structures must be approved by the City Engineer. Plans,

specifications and computations for storm water management facilities submitted for review must be sealed and signed by a registered professional engineer licensed in the State of Minnesota. All computations must appear in the plans submitted for review, unless otherwise approved by the City Engineer.

**10-91-5: REVIEW:** The City Engineer shall review the Wetland Management Plan.

- A. **Permit Required.** If the City determines that the Wetland Management Plan meets the requirements of this ordinance, the City shall issue a permit valid for specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of this plan.
- B. **Denial.** If the City determines that the Wetland Management Plan does not meet the requirements of this ordinance, the City shall not issue a permit for the land disturbance activity. All land use and building permits must be suspended until the applicant has an approved plan.

**10-91-6: MODIFICATION OF PLAN:** An approved Wetland Management Plan may be modified on submission of a written application for modification to the City, and after written approval by the City Engineer. In reviewing such an application, the City Engineer may require additional reports and data.

- A. **Records Retention.** The City shall retain the written records of such modifications for at least five (5) years.

**10-91-7: FINANCIAL SECURITIES:** The applicant shall provide security for the performance of the work described and delineated on the approved grading plan involving the Wetland Management Plan and any Storm Water Pollution Prevention Plan related remedial work in an amount of \$2,000 per gross acre or \$750 for each single or twin family home, whichever is greater. This security must be available prior to commencing the project. The form of the securities must be:

- A. **Currency.** The first \$10,000 (in U.S. currency) or fifteen (15) percent, whichever is greater, of this financial security must be by cash deposit to the City,
- B. **Deposit.** Deposit, either with the City, a responsible escrow agent, or trust company, at the option of the City, money, negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges that the funds are on deposit and guaranteed for payment. The type of security must be of a type acceptable by the City,

- C. **Financial Security.** The City may request a greater financial security, if the City considers that the development site is especially prone to erosion or the resource to be protected is especially valuable.
- D. **Maintaining the Financial Security.** If at anytime during the course of the work the security falls below fifty (50) percent of the required deposit, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount.
1. If the applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the City that the amount has fallen below fifty (50) percent of the required amount the City may:
    - a. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
    - b. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
- E. **Proportional Reduction of the Financial Security.** When more than half of the development's exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by half, if recommended by the City Engineer.
- F. **Action Against the Financial Security.** The City may act against the financial security if any of the conditions listed below exist. The City shall use funds from this security to finance remedial work undertaken by the City or a private contractor under contract to the City and to reimburse the City for all direct costs incurred in the process of remedial work including, but not limited to, staff time, consultant time, and attorney's fees.
1. The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
  2. The applicant fails to conform to the grading plan and/or the Storm Water Pollution Prevention Plan and/or the Wetland Management Plan as approved by the City.
  3. The techniques utilized under the Wetland Management Plan fail within one year of installation.
  4. The applicant fails to reimburse the City for corrective action taken under Section 10-91-9 and Section 10-91-11 of this Ordinance.

- G. **Returning the Financial Security.** Any unspent amount of the financial security deposited with the City for faithful performance of the Wetland Management Plan and any storm water pollution prevention plan related remedial work must be released one full year after the completion of the installation of all storm water pollution control measures as shown on the grading and/or storm water pollution prevention plan and establishment of final stabilization.

**10-91-8: RIGHT OF ENTRY AND INSPECTION:**

- A. **Powers.** The permittee shall allow the City and their authorized representatives, upon presentation of credentials to:
1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
  2. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
  3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records to be kept under the terms and conditions of this permitted site.
  4. Inspect the storm water pollution control measures required as part of the Wetland Management Plan.
  5. Sample and monitor any items or activities pertaining to permits issued by the City.

**10-91-9: NOTIFICATION OF FAILURE OF THE WETLAND MANAGEMENT PLAN:** The City shall notify the permittee when the City is going to act on the financial securities part of this ordinance.

- A. **Notification by the City.** The initial contact will be to a party or parties listed on the application and/or the Wetland Management Plan. Forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City, at its discretion, may begin corrective work.
- B. **Erosion into Wetlands or Water Bodies.** If eroded soils (including tracked soils from construction activities) enter or appear likely to enter wetlands or other water bodies, prevention strategies, cleanup and repair must be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

C. **Failure to Do Corrective Work.** When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take the following actions:

1. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
2. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
3. Direct the correction of the deficiency by the City or by a separate contract. The issuance of a permit constitutes a right-of entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.
4. All costs incurred by the City in correcting storm deficiencies must be reimbursed by the applicant. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities as described in Section 10-91-7 of this Ordinance.
5. If there is an insufficient financial amount, in the applicant's financial securities as described in Section 10-91-7 of this Ordinance to cover costs incurred by the City, then the City may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of assessment.

**10-91-10: VARIANCE:** In any case where, upon application of the responsible person or persons, the City finds that by reason of exceptional circumstances strict conformity with this ordinance would be unreasonable, impractical, or not feasible under the circumstances; the City in its discretion may grant a variance there from upon such conditions as it may prescribe for prevention, control, or abatement of pollution in harmony with the general purposes of this ordinance. The variance shall be processed in compliance with Chapter 8 of this Ordinance.

**10-91-11: ENFORCEMENT:** The City is responsible for enforcement of this Ordinance and shall act in accordance with Section 10-3-9 of this Ordinance.

**10-91-12: ABROGATION AND GREATER RESTRICTIONS:** It is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

**10-91-13: SEVERABILITY:** The provisions of this ordinance are severable, and if any provisions of this ordinance, or application of any provision of this ordinance to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this ordinance must not be affected thereby.

## CHAPTER 92

### IMPACTS TO RIVERS, STREAMS, AND PUBLIC WATERS

#### SECTION:

- 10-92-1: Purpose
- 10-92-2: Scope
- 10-92-3: General River, Stream or Public Water Requirements
- 10-92-4: River, Stream or Public Water Buffer Plan
- 10-92-5: Review
- 10-92-6: Modification of Plan
- 10-92-7: Financial Securities
- 10-92-8: Right of Entry and Inspection
- 10-92-9: Notification of Failure of the River, Stream or Public Water Buffer Plan
- 10-92-10: Variance
- 10-92-11: Enforcement
- 10-92-12: Abrogation and Greater Restrictions
- 10-92-13: Severability

**10-92-1: PURPOSE:** The purpose of this ordinance is to control or minimize impacts to rivers, streams and Public Waters. In addition, storm water pollution along with soil erosion and sedimentation shall be controlled to preserve water bodies within the City. It establishes standards and specifications for conservation practices and planning services, which minimize impacts to rivers, streams or Public Waters.

**10-92-2: SCOPE:** Except where a variance is granted, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity within the City that is adjacent to a river, stream or Public Water shall submit to the City, for approval, a River, Stream or Public Water Buffer Plan, as required by this Ordinance. No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth herein.

**10-92-3: GENERAL RIVER, STREAM OR PUBLIC WATER REQUIREMENTS:** Every applicant for a building permit with twenty thousand (20,000) square feet or more of land disturbance, subdivision approval, or a permit to allow for excavation, filling, grading, or other such activity, when on a parcel riparian to an identified public water shall submit a River, Stream or Public Water Buffer Plan to the City Engineer for review and approval. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until the City approves this plan.

- A. Runoff shall not be discharged directly into rivers, streams or Public Waters without quality and quantity runoff control in compliance with the terms of this Ordinance.
- B. Undisturbed buffer zones of native vegetation are required at all times for permitted activity adjacent to rivers, streams or Public Waters.
- C. The Rum River is classified as a “Scenic or Recreational River Segment” by the Minnesota Pollution Control Agency. This classification causes the river to fall under the “Special Water” designation and requires additional consideration for stormwater pollution prevention. Reference requirements of the Minnesota Pollution Control Agency’s NPDES/SDS General Stormwater Permit for Construction Activity for work in the vicinity of a Special Water.

**10-92-4: RIVER, STREAM OR PUBLIC WATER BUFFER PLAN:** Every applicant for a building permit with twenty thousand (20,000) square feet or more of land disturbance, subdivision approval, or a permit to allow for excavation, filling, grading, or other such activity, when conducted on a parcel riparian to a river, stream or public water, must submit a River, Stream or Public Water Buffer Plan to the City Engineer. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until the City approves this plan. At a minimum these pollution abatement control practices must conform to those in the current version of the Minnesota Pollution Control Agency’s publication, “Protecting Water Quality in Urban Areas”.

- A. **The River, Stream or Public Water Buffer Plan and the Grading Plan.** The River, Stream or Public Water Buffer plan measures and limits the area of disturbed surface and identifies the location of buffers. All land disturbance activities and buffers shall be marked on the approved grading plan, and identified with flags, stakes, signs, fences, etc. on the development site before work begins.
- B. **Inspections of the River, Stream or Public Water Buffer Plan’s Measures.** At a minimum such inspections shall be done monthly to assure protection of the river, stream or Public Water and surrounding buffer.
- C. **Minimum Requirements of the River, Stream or Public Water Buffer Plan.**
  - 1. This plan is a supplement to the required Stormwater Pollution Prevention Plan. The requirements of the SWPPP are identified in this Ordinance.
  - 2. Phasing of construction: time frames and schedules for the construction in the vicinity of the river, stream or Public Water.
  - 3. A map of the existing river, stream or public water and existing native buffers.



4. A site construction plan that includes the proposed land disturbing activities, stockpile locations, erosion and sediment control plan, construction schedule, and the plan for the maintenance and inspections of the River, Stream or Public Water Buffer Plan's measures.
5. Designate the site's areas that have the potential for serious erosion problems that may impact the river, stream or public water on or adjacent to the site.
6. Permanent stabilization: how the buffer areas will be stabilized after construction is completed, including buffer width and type of vegetation, specifications, time frames or schedules, and maintenance procedures.
7. At the minimum, a one hundred (100) foot wide protective buffer strip of, if possible, predevelopment vegetation shall be along each bank of the Rum River. Buffer width shall be increased at least two (2) feet per one (1) percent of slope of the surrounding land.
  - a. Detailed buffer design shall be site specific.
  - b. For newly constructed buffers site specific design criteria should follow common principles and the example of nearby natural areas. The site should be examined for existing buffer zones and mimic the slope structure and vegetation as much as possible. Buffer design and protection during construction should do any or all of the following: slow water runoff, trap sediment, enhance water infiltration, trap fertilizers, pesticides, pathogens, heavy metals, trap blowing snow and soil, and act as corridors for wildlife. How much stress is put on these functions will determine the buffer zone's final configuration. The Minnesota Department of Natural Resources requires permits when vegetation is introduced downgrade of a water's "ordinary high water mark". The Minnesota Department of Natural Resources area hydrologist defines the ordinary high water mark. Planting permits are obtained from the Minnesota Department of Natural Resources regional fisheries office.
  - c. The applicant and/or property owner shall maintain the buffer strip.
  - d. Drain tiles on the development site should be identified and rendered inoperable.
  - e. Buffer strips can be made into perpetual conservation easements.
  - f. Buffer strips shall be marked as such with permanent signs.

8. At the minimum, a twenty-five (25) foot wide protective buffer strip of, if possible, predevelopment vegetation shall be along each bank of other rivers or streams or a public water. Buffer width shall be increased at least two (2) feet per one (1) percent of slope of the surrounding land.
  - a. Detailed buffer design shall be site specific.
  - b. For newly constructed buffers site specific design criteria should follow common principles and the example of nearby natural areas. The site should be examined for existing buffer zones and mimic the slope structure and vegetation as much as possible. Buffer design and protection during construction should do any or all of the following: slow water runoff, trap sediment, enhance water infiltration, trap fertilizers, pesticides, pathogens, heavy metals, trap blowing snow and soil, and act as corridors for wildlife. How much stress is put on these functions will determine the buffer zone's final configuration. The Minnesota Department of Natural Resources requires permits when vegetation is introduced downgrade of a water's "ordinary high water mark". The Minnesota Department of Natural Resources area hydrologist defines the ordinary high water mark. Planting permits are obtained from the Minnesota Department of Natural Resources regional fisheries office.
  - c. Drain tiles will short-circuit the benefits of vegetated buffer strips. Therefore drain tiles on the development site should be identified and rendered inoperable.
  - d. Buffer strips can be made into perpetual conservation easements.
  - e. Buffer strips shall be marked as such with permanent signs.
9. The applicant and/or property owner shall maintain the buffer strip.
10. Water courses used solely for drainage, such as road side ditches, are exempt from this provision.

**D. General River, Stream or Public Water Buffer Plan Criteria.** The plan shall address the following:

1. This plan is a supplement to the required Stormwater Pollution Prevention Plan. The requirements of the SWPPP are identified in this Ordinance.
2. Establishing permanent vegetation and the related time frame or schedule.

3. Preventing sediment damage to adjacent natural features and other designated areas such as streams, wetlands, lakes and unique vegetation (e.g., oak groves, rare and endangered species habitat.)
4. The location of permanent and temporary sedimentation basins.
5. Precautions to be taken to contain sediment when working in or crossing water bodies.
6. The maintenance of temporary and permanent erosion and sediment control practices.

E. **Minimum River, Stream, or Public Water Buffer Plan Measures and Inspection.** These minimum control measures are required where land disturbance activities are adjacent to a river, stream or Public Water. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the City Engineer. The City will determine what action is necessary to prevent impacts to river, streams or other Public Waters from occurring on the site. The plan shall address the following:

1. This plan is a supplement to the required Stormwater Pollution Prevention Plan. The requirements of the SWPPP are identified in this Ordinance.
2. All grading plans and building site surveys must be reviewed by the City for effectiveness of erosion control measures protecting the adjacent water body in the context of the site topography and drainage.
3. Sediment control measures must be properly installed by the applicant/contractor before construction activity begins. Such structures may be adjusted during dry weather to accommodate short term activities, such as those that require very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the configuration specified by the City. An inspection to confirm compliance shall be scheduled, and passed before a footing inspection will be done.
4. Minimize amount of exposed soil.
5. Minimize disturbance of vegetation adjacent to rivers, streams or other Public Waters to provide wider buffers through the majority of the construction.
6. Locate stockpiles in areas a safe distance from existing rivers, streams or Public Waters and other native buffer areas.

7. Monthly inspections of all river and stream buffers will be required when construction activities are occurring to assist in preserving the buffer area and assuring proper establishment/preservation of the vegetation.
  8. Follow-up inspections must be performed by the City on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant and/or builder to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, a stop work order may be issued by the City Engineer or Building Official, until erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.
  9. The entire buffer area shall be contained entirely within an outlot when dedicated to the City or drainage and utility easement in favor of the City.
- F. **Models / Methodologies Computations.** Hydrologic models and design methodologies used for determining runoff characteristics and analyzing storm water management structures must be approved by the City Engineer. Plans, specifications and computations for storm water management facilities submitted for review must be sealed and signed by a registered professional engineer licensed in the State of Minnesota. All computations must appear in the plans submitted for review, unless otherwise approved by the City Engineer.

**10-92-5: REVIEW:** The City Engineer shall review the River, Stream, or Public Water Buffer Plan.

- A. **Permit Required.** If the City determines that the River, Stream, or Public Water Buffer Plan meets the requirements of this ordinance, the City shall issue a permit valid for specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of this plan.
- B. **Denial.** If the City determines that the River, Stream or Public Water Buffer Plan does not meet the requirements of this ordinance, the City shall not issue a permit for the land disturbance activity. All land use and building permits must be suspended until the applicant has an approved plan.

**10-92-6: MODIFICATION OF PLAN:** An approved River, Stream or Public Water Buffer plan may be modified on submission of a written application for modification to the City, and after written approval by the City Engineer. In reviewing such an application, the City Engineer may require additional reports and data.

- A. **Records Retention.** The City shall retain the written records of such modifications for at least five (5) years.

**10-92-7: FINANCIAL SECURITIES:** The applicant shall provide security for the performance of the work described and delineated on the approved grading plan involving the River, Stream, or Public Water Buffer Plan and any Storm Water Pollution Prevention Plan related remedial work in an amount of \$2,000 per gross acre or \$750 for each single or twin family home, whichever is greater. This security must be available prior to commencing the project. The form of the securities must be:

- A. **Currency.** The first \$10,000 (in U.S. currency) or fifteen (15) percent, whichever is greater, of this financial security must be by cash deposit to the City,
- B. **Deposit.** Deposit, either with the City, a responsible escrow agent, or trust company, at the option of the City, money, negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges that the funds are on deposit and guaranteed for payment. The type of security must be of a type acceptable by the City,
- C. **Financial Security.** The City may request a greater financial security, if the City considers that the development site is especially prone to erosion or the resource to be protected is especially valuable.
- D. **Maintaining the Financial Security.** If at anytime during the course of the work the security falls below fifty (50) percent of the required deposit, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount.
1. If the applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the City that the amount has fallen below fifty (50) percent of the required amount the City may:
- a. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
- b. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
- E. **Proportional Reduction of the Financial Security.** When more than half of the development's exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by half, if recommended by the City Engineer.

- F. **Action Against the Financial Security.** The City may act against the financial security if any of the conditions listed below exist. The City shall use funds from this security to finance remedial work undertaken by the City or a private contractor under contract to the City and to reimburse the City for all direct costs incurred in the process of remedial work including, but not limited to, staff time, consultant time, and attorney's fees.
1. The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
  2. The applicant fails to conform to the grading plan and/or the River, Stream, or Public Water Buffer Plan as approved by the City.
  3. The techniques utilized under the River, Stream, or Public Water Buffer Plan fail within one year of installation.
  4. The applicant fails to reimburse the City for corrective action taken under Section 10-92-8 of this Ordinance.
- G. **Returning the Financial Security.** Any unspent amount of the financial security deposited with the City for faithful performance of the River, Stream, or Public Water Buffer Plan and any storm water pollution prevention plan related remedial work must be released one full year after the completion of the installation of all storm water pollution prevention measures as shown on the grading and/or storm water pollution prevention plan and establishment of final stabilization.

**10-92-8: RIGHT OF ENTRY AND INSPECTION:**

- A. **Powers.** The permittee shall allow the City and their authorized representatives, upon presentation of credentials to:
1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
  2. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
  3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records to be kept under the terms and conditions of this permitted site.
  4. Inspect the storm water pollution control measures required as part of the River, Stream, or Public Water Management Plan.

5. Sample and monitor any items or activities pertaining to permits issued by the City.

**10-92-9: NOTIFICATION OF FAILURE OF THE RIVER, STREAM, OR PUBLIC WATER BUFFER PLAN:** The City shall notify the permittee when the City is going to act on the financial securities part of this ordinance.

- A. **Notification by the City.** The initial contact will be to a party or parties listed on the application and/or the River, Stream, or Public Water Buffer Plan. Forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City, at its discretion, may begin corrective work.
- B. **Erosion into Wetlands or Water Bodies.** If eroded soils (including tracked soils from construction activities) enter or appear likely to enter wetlands or other water bodies, prevention strategies, cleanup and repair must be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
- C. **Failure to Do Corrective Work.** When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take the following actions:
  1. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
  2. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
  3. Direct the correction of the deficiency by the City or by a separate contract. The issuance of a permit constitutes a right-of entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.
  4. All costs incurred by the City in correcting deficiencies must be reimbursed by the applicant. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities as described in Section 10-92-7 of this Ordinance.
  5. If there is an insufficient financial amount, in the applicant's financial securities as described in Section 10-92-7 of this Ordinance to cover the costs incurred by the City, then the City may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed

assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of assessment.

**10-92-10: VARIANCE:** In any case where, upon application of the responsible person or persons, the City finds that by reason of exceptional circumstances strict conformity with this ordinance would be unreasonable, impractical, or not feasible under the circumstances; the City in its discretion may grant a variance there from upon such conditions as it may prescribe for prevention, control, or abatement of pollution in harmony with the general purposes of this ordinance. The variance shall be processed in compliance with Chapter 8 of this Ordinance.

**10-92-11: ENFORCEMENT:** The City shall be responsible for enforcing this ordinance and shall act in accordance with Section 10-3-9 of this Ordinance.

**10-92-12: ABROGATION AND GREATER RESTRICTIONS:** It is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

**10-92-13: SEVERABILITY:** The provisions of this Ordinance are severable, and if any provisions of this ordinance, or application of any provision of this ordinance to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this ordinance must not be affected thereby.



## CHAPTER 93

### STORMWATER MANAGEMENT - STORMWATER POLLUTION PREVENTION

#### SECTION:

- 10-93-1: Purpose
- 10-93-2: Scope
- 10-93-3: Stormwater Pollution Prevention Plan
- 10-93-4: Review
- 10-93-5: Modification of Plan
- 10-93-6: Financial Securities
- 10-93-7: Notification of Failure of the Stormwater Pollution Prevention Plan
- 10-93-8: Variance
- 10-93-9: Enforcement
- 10-93-10: Right of Entry and Inspection
- 10-93-11: Abrogation and Greater Restrictions
- 10-93-12: Severability

**10-93-1: PURPOSE:** The purpose of this Chapter is to control or eliminate stormwater pollution along with soil erosion and sedimentation within the City. It establishes standards and specifications for conservation practices and planning services, which minimize stormwater pollution, soil erosion, and sedimentation.

**10-93-2: SCOPE:** Except where a variance is granted, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity within the City shall submit to the City, for approval, a Stormwater Pollution Prevention Plan, as required by this Ordinance. No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth herein.

**10-93-3: STORMWATER POLLUTION PREVENTION PLAN:** Every applicant for a building permit with twenty thousand (20,000) square feet or more of land disturbance, subdivision approval, or a permit to allow for excavation, filling, grading, or other such activity shall submit a Stormwater Pollution Prevention Plan to the City Engineer for review and approval. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until the City approves this plan. At a minimum these pollution abatement control practices must conform to those in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas".

A. **General Policy on Stormwater Runoff Rates.** Proposed stormwater runoff rates must be at or below ninety (90) percent of the predevelopment two (2) year,

ten (10) year and one hundred (100) year peak storm discharge rates, based on the immediate preceding ten (10) years of land use. Also, accelerated channel erosion must not occur as a result of the proposed activity.

- B. **The Stormwater Pollution Prevention Plan and the Grading Plan.** The Stormwater Pollution Prevention Plan measures and limits the area of disturbed surface and identifies the location of buffers. All land disturbance activities and buffers shall be marked on the approved grading plan, and identified with flags, stakes, signs, fences, etc. on the development site before work begins.
- C. **Inspections of the Stormwater Pollution Prevention Plan Measures.** At a minimum such inspections shall be done weekly and after every storm event that produces one-half (0.5) inches of rainfall in twenty-four hours either by the applicant or the applicant's designated representative.
- D. **Minimum Requirements of the Stormwater Pollution Prevention Plan.**
1. Project Description. The nature and purpose of the land disturbing activity and the amount of grading, utilities, and building construction involved.
  2. Phasing of Construction. Time frames and schedules for the project's various aspects.
  3. A Map of the Existing Site Conditions. Existing topography, property information, steep slopes, existing drainage systems/patterns, type of soils, waterways, wetlands, vegetative cover, one hundred (100) year flood plain boundaries, locations of existing and future buffer strips.
  4. A site construction plan that includes the proposed land disturbing activities, stockpile locations, erosion and sediment control plan, construction schedule, and the plan for the maintenance and inspections of the stormwater pollution prevention measures.
  5. Adjacent Areas. Neighboring streams, lakes, residential areas, roads, etc., which might be affected by the land disturbing activity.
  6. Designate the site's areas that have the potential for serious erosion problems.
  7. Erosion and sediment control measures. The methods that will be used to control erosion and sedimentation on the site, both during and after the construction process.
  8. Permanent Stabilization. How the site will be stabilized after construction is completed, including specifications, time frames or schedules.

9. The following shall be used as a basis for calculations in the City.
  - a. One Year Event. Two and three-tenths (2.3) inches of rainfall (for Land Disturbing Activities covered under Appendix A of the MPCA's NPDES/SDS General Stormwater Permit for Construction Activity.
  - b. Two Year Event. Two and seven-tenths (2.7) inches of rainfall (included in all submittals where Permanent Controls are necessary)
  - c. Ten Year Event. Four and one-tenth (4.1) inches of rainfall (included in all submittals where Permanent Controls are necessary)
  - d. One Hundred Year Event. Five and nine-tenths (5.9) inches of rainfall (included in all submittals where Permanent Controls are necessary)
10. Calculations:
  - a. Any that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones, piping systems and other applicable practices.
  - b. Show the back-to-back 100-year storm event for Emergency Overflow routing.

E. **General Stormwater Pollution Prevention Plan Criteria.** The plan shall address the following:

1. Stabilizing all exposed soils and soil stockpiles and the related time frames or schedule associated with stabilization.
2. Establishing permanent vegetation and the related time frame or schedule.
3. Preventing sediment damage to adjacent properties and other designated areas such as streams, wetlands, lakes and unique vegetation (e.g., oak groves, rare and endangered species habitat.)
4. Scheduling for erosion and sediment control practices.
5. The location of permanent and temporary sedimentation basins.
6. Engineering the construction and stabilization of steep slopes.

7. Measures that will control the quality and quantity of stormwater leaving a site.
8. Stabilizing all waterways and outlets.
9. The protection and prevention of sediment from entering storm sewers.
10. Precautions to be taken to contain sediment when working in or crossing water bodies.
11. Re-stabilizing utility construction areas as soon as possible.
12. Protecting paved roads from sediment and soils brought in from access routes.
13. Disposing of temporary erosion and sediment control measures.
14. The maintenance of temporary and permanent erosion and sediment control practices.
15. The disposal of collected sediment and floating debris.

F. **Minimum Stormwater Pollution Prevention Measures and Related Inspections.** These minimum control measures are required where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated.

1. All grading plans and building site surveys must be reviewed by the City for effectiveness of erosion control measures in the context of the site topography and drainage.
2. Sediment control measures must be properly installed by the applicant/contractor before construction activity begins. Such structures may be adjusted during dry weather to accommodate short term activities, such as those that require very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the configuration specified by the City. An inspection to confirm compliance shall then be scheduled, and passed before a footing inspection will be done.
3. Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.
4. Easements. If a stormwater management plan involves directing some or all of the site's runoff, the applicant or his designated representative shall

obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of such water.

5. The scheduling of the site's activities to lessen their impact on erosion and sediment creation.
6. Minimize amount of exposed soil.
7. Control runoff as follows (either a. and b. or a. and c. below):
  - a. Unless precluded by moderate or heavy snow cover (mulching can take place if a light snow cover is present), stabilize all exposed inactive disturbed soil areas within two hundred (200) feet of any water of the state, or any conveyance (curb, gutter, storm sewer inlet, drainage ditch, etc.) to a water of the state with sod, seed or weed free mulch. This must be done, if no land disturbing activities are completed for seven (7) days on slopes greater than three feet horizontal to one foot vertical (3:1), or for fourteen (14) days on slopes less than three to one (3:1).
  - b. For disturbed areas greater than ten (10) acres construct temporary or permanent sedimentation basins. Sedimentation basins must have a minimum surface area equal to at least one (1) percent of the area draining to basin, and be constructed in accordance with accepted design specifications including access for operations and maintenance. These basins must conform to requirements of the National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater Permit. Basin discharge rates must also be controlled to prevent erosion in the discharge channel. The applicant is required to obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Phase II (or most current) construction stormwater permit from the Minnesota Pollution Control Agency for any project that disturbs one (1) acre or more of land.
  - c. For disturbed areas less than ten (10) acres sedimentation basins are encouraged, but not required, unless specifically required by the City Engineer. The applicant shall install erosion and sediment controls at locations directed by the City. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences are required along channel edges to prevent sediment from reaching the channel. Silt fences, rock check dams, etc. must be regularly inspected and maintained in accordance with the most current MPCA NPDES Construction Stormwater Permit.

8. Infiltration of the first five-tenths (0.5) inches of rainfall over new impervious surfaces will be required for all new development or redevelopment projects.
  - a. This requirement can be waived if, at the discretion of the City, the site is not considered suitable for infiltration.
  - b. This requirement can be waived if, at the discretion of the City, the site has the potential to contaminate the groundwater.
  - c. This requirement will be waived if the project is in a Drinking Water Supply Management Area, as defined by the City.
9. Treatment of stormwater to meet NURP guidelines is required prior to discharge to a surface water.
10. Sediment basins related to impervious surface area. Where a project's ultimate development replaces surface vegetation with one (1) or more acres of cumulative impervious surface, and all runoff has not been accounted for in a local unit of government's existing stormwater management plan or practice, the runoff must be discharged to an infiltration basin, unless infiltration is not allowed in the area, a wet sedimentation basin, or a regional facility prior to entering waters of the state. At a minimum, the improvements must conform to the current version of the Minnesota Pollution Control Agency's publication: "Protecting Water Quality in Urban Areas" and/or the current version of the Minnesota Pollution Control Agency's publication, "The Minnesota Stormwater Manual", the current requirements found in the same agency's NPDES/SDS permits for stormwater associated with construction activities, and all other requirements of this ordinance.
11. Additional Requirements for "Special Waters":
  - a. The Rum River is classified as a "Scenic or Recreational River Segment" by the Minnesota Pollution Control Agency. This classification causes the river to fall under the "Special Water" designation and requires additional consideration for stormwater pollution prevention. Reference requirements of the Minnesota Pollution Control Agency's NPDES/SDS General Stormwater Permit for Construction Activity for work in the vicinity of a Special Water.
    - (1) Shortened time periods for restoring areas within a certain distance of a special water or impaired water as defined in the Permit.

- (2) More stringent requirements for temporary erosion and sediment control measures as defined in the Permit.
  - (3) More stringent requirements for infiltration as a permanent erosion and sediment control measure as defined in the Permit.
  - (4) An undisturbed buffer area of one hundred (100) feet as described in the Permit.
  - (5) Additional volume controls for new impervious areas when the discharge point is within one (1) mile of the special water and flows to the special water. See the Permit for related information.
- 12. Generally, sufficient silt fences will be required to hold all sheet flow runoff generated at an individual site, until it can either infiltrate or seep through silt fence's pores.
- 13. Temporary stockpiling of fifty (50) or more cubic yards of excess soil on any lot or other vacant area will not be allowed without issuance of a grading permit for the earth moving activity in question.
- 14. For soil stockpiles greater than ten (10) cubic yards, the toe of the pile must be more than twenty-five (25) feet from a road, drainage channel or stormwater inlet. If left for more than seven (7) days, they must be stabilized with mulch, vegetation, tarps or other means. If left for less than seven (7) days, erosion from stockpiles must be controlled with silt fences or rock check dams.
  - a. If for any reason a soil stockpile of any size is located closer than twenty-five (25) feet from a road, drainage channel or stormwater inlet, and left for more than seven (7) days, it must be covered with tarps or controlled in some other manner.
- 15. All sand, gravel or other mining operations taking place on the development site shall have a National Pollutant Discharge Elimination System General Stormwater Permit for industrial activities and all required Minnesota Department of Natural Resources permits.
- 16. Temporary rock construction entrances are required wherever vehicles enter and exit a site unless otherwise approved by the City Engineer.
- 17. Parking is prohibited on all bare lots and all temporary rock construction entrances, except where street parking is not available. Rock construction entrances are to be used for deliveries of material and equipment only.

18. Traveled surfaces including but not limited to streets, parking lots, sidewalks and trails must be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends or holidays. Establishment of a regular sweeping schedule is encouraged.
19. Water, impacted by the construction activity, that is being removed from the site by pumping must be treated by temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. Such water shall not be discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property, or a wetland.
20. All storm drain inlets must be protected during construction until control measures are in place with either a silt fence or an equivalent barrier that meets accepted design criteria, standards and specifications as contained in the latest version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas".
21. Catch basins. All newly installed and rehabilitated catch basins immediately prior to rivers, lakes, streams, or wetlands must be provided with a minimum three (3) foot sump area for collecting coarse-grained material or a permanent sedimentation pond between the outlet and such water bodies.
22. Roof drain leaders. All newly constructed and reconstructed buildings must route drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.
23. Follow-up inspections must be performed by the City on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant and/or builder to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, construction stop orders may be issued by the City, until erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.
24. Where in-place measures are not effective, additional SWPPP measures shall be required to satisfy requirements of this ordinance.
25. Inspection and Maintenance. All stormwater pollution control management facilities must be designed to minimize the need of maintenance, to provide easy vehicle and personnel access for maintenance purposes,



and be structurally sound. These facilities must have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in stormwater runoff. The City or its designated representative shall inspect all stormwater management facilities during construction, during the first year of operation and at least once every five (5) years thereafter. The City will keep all inspection records on file for a period of six (6) years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow permanent access to the stormwater management facilities for inspection and maintenance purpose.

**G. Permanent Stormwater Pollution Controls.**

1. The applicant shall install or construct, and pay all appropriate City Stormwater Fees for all stormwater management facilities necessary to manage increased runoff, so that the proposed stormwater runoff rates are at or below ninety (90) percent of the predevelopment two (2) year, ten (10) year and one hundred (100) year peak storm discharge rates, based on the immediate preceding ten (10) years of land use. The applicant shall also make an in-kind or monetary contribution to the development and maintenance of community stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
2. All calculations and information used in determining these peak storm discharge rates shall be submitted along with the Stormwater Pollution Prevention Plan for the review and approval of the City Engineer.
  - a. Calculations
    - (1) Any that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones, piping systems and other applicable practices.
    - (2) Show the back-to-back 100-year storm event for Emergency Overflow routing.
  - b. Additional Information.
    - (1) Maps, figures, soil sampling results, and other relevant information used with the calculations.
3. The applicant shall consider reducing the need for stormwater management facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they exist before

development to the degree that they can accommodate the additional flow of treated (e.g. settled) water without compromising the integrity or quality of the water body or pond.

4. The following stormwater management practices must be investigated in developing the stormwater management part of the Stormwater Pollution Prevention Plan in the following descending order of preference:
  - a. Protect and preserve as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches.
  - b. Flow attenuation by use of open vegetated swales and natural depressions;
  - c. Infiltration basin, unless in an area where they are prohibited;
  - d. Stormwater wet detention facilities (including percolation facilities), and
  - e. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection (A) above. The applicant shall provide justification for the method selected.
5. Minimum Design Standards for all Stormwater Facilities.
  - a. At a minimum these facilities must conform to the most current technology as reflected in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas" and the current requirements found in the same agency's NPDES permits for stormwater associated with construction activities. Other requirements are presented below:
  - b. Major stormwater facilities (i.e., ponds, pond outlet systems, and major conveyance systems) shall be designed for a return period of one hundred (100) years.
  - c. All minor drainage systems (i.e., piped collection systems and minor conveyance systems) shall be designed for a return period of ten (10) years.
  - d. Minimum building elevations shall be above designed or designated flood levels. The lowest building floor elevation shall be one (1) foot above the 100-year flood level or one (1) foot above the pond

EOF, whichever is higher. The 100-year flood level shall be the highest 100-year level resulting from a single event analysis; the 100-year, 10-day snowmelt event; a multiple day runoff event analysis, or the critical event analysis.

- e. Minimum opening elevations shall be above designed or designated flood levels. The minimum building opening elevation shall be one (1) foot above the 100-year flood level or pond EOF. The 100-year flood level shall be the highest 100-year level resulting from a single event analysis; the 100-year, 10-day snowmelt event; a multiple day runoff event analysis, or the critical event analysis.
- f. Landlocked runoff basins shall be sized to handle back-to-back 100-year SCS twenty-four (24) hour rainfall events, the ten (10) inch SCS twenty-four (24) hour rainfall event or the 100-year, 10-day snowmelt snow melt event, whichever produces the higher peak pond elevation (Landlocked HWL). The lowest building floor elevation around landlocked basins shall be two (2) feet above the Landlocked HWL.
- g. Emergency overflows or outlets to drainage systems shall be provided to any landlocked area if the available stormwater storage capacity is inadequate to prevent flooding of residences and if the available downstream conveyance system capacity is adequate to accept additional flow.
- h. The area of a pond's HWL plus one (1) foot of freeboard shall be contained entirely within an outlot, or drainage and utility easement, that is owned by the City.
- i. Pre- and Post-development discharge rates shall be generated using SCS TR 20 or SCS TR 55 methodology using a twenty-four (24) hour SCS type II rainfall distribution. The two (2) year, twenty-four (24) hour rainfall depth shall be two and seven-tenths (2.7) inches of total precipitation, ten (10) year, twenty-four (24) hour rainfall depth shall be four and one-tenth (4.1) inches of total precipitation, and the 100-year, twenty-four (24) hour rainfall depth shall be five and nine-tenths (5.9) inches of total precipitation.
- j. The SCS runoff curve number (CN) for the existing undeveloped areas and the minimum CN's for developed conditions shall be limited to that shown in the following table:

Maximum existing .....CN = 55  
Minimum residential development .....CN = 65

Minimum commercial development .....CN = 90  
Minimum industrial development .....CN = 90

- k. These maxima and minima are general in nature and typically apply to previously undeveloped land. There will undoubtedly be cases where the existing land exists as pasture, wetlands, ungrazed meadows, etc. which will require appropriate curve number adjustment in accordance with standard SCS TR-20 and TR-55 methodology.
- l. The post development runoff rates shall be controlled using infiltration practices, other BMPs, or wet retention basins.

**H. Additional Minimum Design Standards for Stormwater Infiltration Facilities.**

At a minimum these facilities must conform to the most current technology as reflected in the current version of the Minnesota Pollution Control Agency's publication, "The Minnesota Stormwater Manual" and the current requirements found in the same agency's NPDES permits for stormwater associated with construction activities. In addition, the basins shall meet the requirements identified in the Upper Rum River Watershed Management Organization's Watershed Management Plan Amendment titled "Stormwater Infiltration Standards".

- I. Additional Minimum Design Standards for Stormwater Wet Detention Facilities. At a minimum these facilities must conform to the most current technology as reflected in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas" and the current requirements found in the same agency's NPDES permits for stormwater associated with construction activities. Other requirements are presented below:

**1. Wet Retention Basins**

- a. Wet retention basins shall be designed with dead storage volumes (permanent pool volumes) in accordance with the following:
  - (1) The dead storage volume shall be greater than or equal to the runoff from a two and one-half (2.5) inch storm over the entire drainage area assuming full development.
  - (2) The dead storage volumes shall be a minimum of one thousand eight hundred (1,800) cubic feet for each acre that drains to the pond.
- b. The mean pond depth (pond volume/surface area) should be three (3) feet and not more than ten (10) feet.

- c. An emergency spillway, capable of controlling the 100-year storm event, should be included.
- d. The pond should have a safety bench extending from the edge of the water into the pond a minimum distance of ten (10) feet with a maximum slope of ten to one (10:1) (i.e., the pond should be no greater than one (1) foot in depth within ten (10) feet of the shoreline.
- e. The maximum interior pond slopes, inside the safety bench should be no greater than four to one (4:1) (horizontal to vertical).
- f. The maximum exterior pond slopes, outside the safety bench should be no greater than four to one (4:1) (horizontal to vertical).
- g. The distance of the pond outlet structure from the pond inlet shall be maximized. The outlet should be no closer than fifty (50) percent of the pond length from the pond inlet to prevent short circuiting.
- h. The pond outlet structure shall be designed to skim and prevent floating debris from leaving the pond.
  - (1) The structure shall be designed so the skimmer extends a minimum of four (4) inches below the water surface.
  - (2) The water passing under the skimmer shall have a maximum velocity of five-tenths (0.5) feet per second during a one (1) year storm event.
- i. The pond outlet structure shall be designed to reduce peak discharges to meet the specific requirements of this ordinance. The principal spillway design may include a small orifice, a perforated riser or a compound weir to reduce peak discharges for more frequent storms.
- j. Where infiltration basins or other BMPs are possible and allowed by the Wellhead protection plan, the Walker dead storage volumes as calculated herein may be modified to account for the infiltration volumes.
- k. Permanent access shall be provided to all permanent basins. Access routes shall be limited to a maximum grade of eight (8) percent.

J. Models/Methodologies Computations. Hydrologic models and design methodologies used for determining runoff characteristics and analyzing

stormwater management structures must be approved by the City Engineer. Plans, specifications and computations for stormwater management facilities submitted for review must be sealed and signed by a registered professional engineer licensed in the State of Minnesota. All computations must appear in the plans submitted for review, unless otherwise approved by the City Engineer.

**10-93-4: REVIEW:** The City Engineer shall review the Stormwater Pollution Prevention Plan.

- A. **Permit Required.** If the City determines that the Stormwater Pollution Prevention Plan meets the requirements of this ordinance, the City shall issue a permit valid for a specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of the approved plan.
- B. **Denial.** If the City determines that the Stormwater Pollution Prevention Plan does not meet the requirements of this ordinance, the City shall not issue a permit for the land disturbance activity. All land use and building permits must be suspended until the applicant has an approved Stormwater Pollution Prevention Plan.

**10-93-5: MODIFICATION OF PLAN:** An approved Stormwater Pollution Prevention Plan may be modified on submission of a written application for modification to the City, and after written approval by the City Engineer. In reviewing such an application, the City Engineer may require additional reports and data.

- A. **Records Retention.** The City shall retain the written records of such modifications for at least five (5) years.

**10-93-6: FINANCIAL SECURITIES:** The applicant shall provide security for the performance of the work described and delineated on the approved grading plan involving the Stormwater Pollution Prevention Plan related remedial work in an amount of \$2,000 per gross acre or \$750 for each single or twin family home, whichever is greater. This security must be available prior to commencing the project. The form of the securities must be;

- A. **Currency.** The first \$10,000 (in U.S. currency) or fifteen (15) percent, whichever is greater, of this financial security must be by cash deposit to the City,
- B. **Deposit.** Deposit, either with the City, a responsible escrow agent, or trust company, at the option of the City, money, negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges that the funds are on

deposit and guaranteed for payment. The type of security must be of a type acceptable by the City,

- C. **Financial Security.** The City may request a greater financial security, if the City considers that the development site is especially prone to erosion or the resource to be protected is especially valuable.
- D. **Maintaining the Financial Security.** If at anytime during the course of the work the security falls below fifty (50) percent of the required deposit, the applicant shall make another deposit in the amount necessary to restore the cash deposit to the required amount.
  - 1. If the applicant does not bring the financial security back up to the required amount within seven (7) days after notification by the City that the amount has fallen below fifty (50) percent of the required amount the City may:
    - a. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
    - b. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
- E. **Proportional Reduction of the Financial Security.** When more than half of the development's exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by half, if recommended by the City Engineer.
- F. **Action Against the Financial Security.** The City may act against the financial security if any of the conditions listed below exist. The City shall use funds from this security to finance remedial work undertaken by the City or a private contractor under contract to the City and to reimburse the City for all direct costs incurred in the process of remedial work including, but not limited to, staff time, consultant time, and attorney's fees.
  - 1. The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the grading plan.
  - 2. The applicant fails to conform to the grading plan and/or the Stormwater Pollution Prevention Plan as approved by the City.
  - 3. The techniques utilized under the Stormwater Pollution Prevention Plan fail within one year of installation.
  - 4. The applicant fails to reimburse the City for corrective action taken under Section 10-93-7 of this Ordinance.

- G. **Returning the Financial Security.** Any unspent amount of the financial security deposited with the City for faithful performance of the Stormwater Pollution Prevention Plan and any Stormwater Pollution Prevention Plan related remedial work must be released one full year after the completion of the installation of all stormwater pollution control measures as shown on the grading and/or Stormwater Pollution Prevention Plan and establishment of final stabilization.

**10-93-7: RIGHT OF ENTRY AND INSPECTION:**

- A. **Powers.** The permittee shall allow the City and their authorized representatives, upon presentation of credentials to:
1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
  2. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
  3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records to be kept under the terms and conditions of this permitted site.
  4. Inspect the stormwater pollution control measures required as part of the Storm Water Pollution Prevention Plan.
  5. Sample and monitor any items or activities pertaining to permits issued by the City.

**10-93-8: NOTIFICATION OF FAILURE OF THE STORMWATER POLLUTION PREVENTION PLAN:** The City shall notify the permittee when the City is going to act on the financial securities part of this ordinance.

- A. **Notification by the City.** The initial contact will be to a party or parties listed on the application and/or the Stormwater Pollution Prevention Plan. Forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City, at its discretion, may begin corrective work.
- B. **Erosion Off-Site.** If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City,



shall more than seven (7) calendar days lapse without corrective action being taken. If in the discretion of the City, the applicant does not repair the damage caused by erosion, the City may do the remedial work required and charge the cost to the applicant.

- C. **Erosion into Streets, Wetlands or Water Bodies.** If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands or other water bodies, prevention strategies, cleanup and repair must be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
- D. **Failure to Do Corrective Work.** When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take the following actions:
1. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
  2. Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
  3. Direct the correction of the deficiency by the City or by a separate contract. The issuance of a permit constitutes a right-of entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.
  4. All costs incurred by the City in correcting stormwater pollution control deficiencies must be reimbursed by the applicant. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities as described in Section 10-93-6 of this Ordinance.
  5. If there is an insufficient financial amount, in the applicant's financial securities as described in Section 10-93-6 of this Ordinance to cover the costs incurred by the City, then the City may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of assessment.

**10-93-9: VARIANCE:** In any case where, upon application of the responsible person or persons, the City finds that by reason of exceptional circumstances strict conformity with this ordinance would be unreasonable, impractical, or not feasible under the circumstances; the City in its discretion may grant a variance there from upon such conditions as it may prescribe for prevention, control, or abatement of pollution in harmony with the general purposes of this ordinance. The variance shall be processed in compliance with Chapter 8 of this Ordinance.

**10-93-10: ENFORCEMENT:** The City is responsible for enforcement of this Ordinance and shall act in accordance with Section 10-3-9 of this Ordinance.

**10-93-11: ABROGATION AND GREATER RESTRICTIONS:** It is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

**10-93-12: SEVERABILITY:** The provisions of this ordinance are severable, and if any provisions of this ordinance, or application of any provision of this ordinance to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Ordinance must not be affected thereby.