



ST. ANTHONY, MINNESOTA

CODE OF ORDINANCES

Local legislation current through 03-14-2017

CITY OF ST. ANTHONY, MINNESOTA

CITY OFFICIALS

MAYOR

Jerome Faust

COUNCILMEMBERS

Jan Jenson
Randy Stille
Hal Gray
Bonnie Brever

CITY MANAGER

Mark Casey

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§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the *St. Anthony, Minnesota, Code of Ordinances*, for which designation “code of ordinances,” “codified ordinances,” or “code” may be substituted. Reference to this code or to any chapter, section, subdivision or other provision shall be deemed to include amendments and additions to this code, or to any such chapter, section, subsection, subdivision or other provision.

(B) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “traffic code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.”

§ 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction and interpretation contained in M.S. Chapter 645 shall govern the interpretation of this code.

(B) *Specific rules of interpretation.* The construction of all ordinances of this city shall be by the following rules, unless their observance would involve a construction inconsistent with the manifest intent of the legislative body or repugnant to the context of the same ordinance.

(1) **AND or OR.** Either conjunction shall include the other as if written “and/or,” whenever the context requires.

(2) *Acts by assistants.* When a statute, code provisions, or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(3) *Singular and plural; gender; tenses.* The singular involves the plural; and the plural, the singular; words of one gender include the other genders; words in the past or present tense include the future.

(4) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases are construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning or are defined in this code, are construed according to such special meaning or their definition.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The area within the corporate boundaries of the City of St. Anthony, Minnesota, as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term **CITY**, when used in this code, may also be used to refer to the City Council and its authorized representatives.

CODE, THIS CODE, or THIS CODE OF ORDINANCES. This city code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. The county or counties in which the city is located.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

PERSON. Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of Minnesota.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have ***SUBCHAPTERS***.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

(C) *Statutory definitions.* In this code, the terms defined in M.S. §§ 645.44, 645.45 and 645.451 have the meanings given them in those sections unless this code contains a different definition. The definitions of any terms defined by statutes, rules, regulations or ordinances adopted by reference in this code are also adopted in this code.

(D) *Internal definitions.* Terms defined in other sections of this code have the meanings given in those sections. If a term is defined in another section of this code and also in this section, and if any inconsistency or ambiguity is created, the definition in this section shall control.

§ 10.06 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in this code a section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words

to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this city for the transaction of all city business.

§ 10.11 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

§ 10.12 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 ENACTMENT OF ORDINANCES.

Ordinances shall be enacted and adopted according to the procedures of M.S. Chapter 412 and § 31.06 of this code. An ordinance shall be effective upon final adoption unless a different effective date is specified in the ordinance.

§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the effective date of the ordinance repealing or modifying it.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the City Council shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.17 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS, AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.18 COPIES OF CODE.

The official copy of this code shall be kept in the office of the Clerk for public inspection. The Clerk shall provide a copy for sale for a reasonable charge.

§ 10.19 ADOPTION OF STATUTES, RULES, AND ORDINANCES BY REFERENCE.

Statutes or administrative rules or regulations of the state and codes and ordinances adopted by reference in this code are adopted under the authority of M.S. § 471.62. One copy of any item adopted, unless more copies are required by law, will be kept by the Clerk for reference to the public. It is the intention of the City Council that, when adopting this code, all future amendments to any state rules and statutes or codes and ordinances adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

§ 10.20 ENFORCEMENT.

(A) Any licensed peace officer of the city's Police Department, or the County Sheriff, or any Deputy Sheriff shall have the authority to enforce any provision of this code.

(B) If permitted by M.S. § 626.862, as it may be amended from time to time, the City Manager shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the City Manager or City Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

(C) The City Manager and any city official or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.

(D) If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Manager, peace officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) Every licensee, owner, resident, or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the City Manager or any other authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds

for termination of any and all permits, licenses, or city service to the property. Mailed notice shall be given to the licensee, owner, resident, or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident, or other person in control of the property shall be given an opportunity to appear before the City Manager to object to the termination before it occurs, subject to appeal of the Manager's decision to the City Council at a regularly scheduled or special meeting.

(F) Nothing in this section shall be construed to limit the authority of the city to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety, and welfare.

§ 10.21 RELATION TO STATE LAW.

The provisions of this code are to be continued to the fullest exercise of the regulations and other powers granted to the city and its officers by state law unless otherwise provided. When this code imposes a more stringent standard or rule of conduct than imposed by state law it is intended that the provisions of this code prevail over state law, rules or regulation to the extent permitted by law.

§ 10.99 GENERAL PENALTY.

(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor.

(B) Any person, firm, or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor.

(C) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(D) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation, unless a penalty is specifically provided for such failure.

(E) In addition to any penalties provided for in this section, if any person, firm, or corporation fails to comply with any provision of this code, the City Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation. In any such action or proceeding the city shall be entitled to recover its costs, disbursements and reasonable attorneys, engineering and related professional fees.

(F) Upon conviction for any violation of this code, the cost of prosecution may be added to the fine.

(G) Violation by a licensee of any provision of this code or state law, regulating, prescribing, conditioning or establishing requirements relative to licenses held by such licensee will be grounds for revocation of such license.

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BILLING AND COLLECTION

§ 30.01 DUTIES OF CITY MANAGER.

The City Manager will compute, give notice of, and collect all charges and bills owing to the city.
(1993 Code, § 205.01)

§ 30.02 NOTICE.

The City Manager will give notice of the due date of any charge or bill owing to the city by depositing in the U.S. mail with postage prepaid a notice directed and addressed to the last known address of the person inhabiting or owning the property against which the charge is made, at least 15 days prior to the due date.

(1993 Code, § 205.02)

§ 30.03 OTHER COLLECTION DEVICES STILL AVAILABLE.

No provision of this section will be construed to deny the city the right to terminate any service rendered by it or revoke any license issued by it when any charge or bill for the service or license becomes delinquent.

(1993 Code, § 205.03)

ELECTIONS**§ 30.15 BIENNIAL ELECTIONS AND TERMS.**

The city will hold regular city elections biennially on the first Tuesday after the first Monday in November of every odd-numbered year. Two City Councilmembers will be elected for 4-year terms at each biennial election. The Mayor will also be elected for a 4-year term beginning with the election in 1987.

(1993 Code, §§ 210.01)

§ 30.16 REGISTRATION OF QUALIFIED VOTERS.

The system for the permanent registration of voters provided for by M.S. Chapter 201, as it may be amended from time to time, is incorporated by reference. No voter will be permitted to vote in any election held in the city unless the person is a resident and is registered as provided by Minnesota law.

(1993 Code, § 210.02)

§ 30.17 ABSENTEE BALLOT BOARD.

An Absentee Ballot Board must be established for all elections and shall incorporate M.S. § 203B.121, as it may be amended from time to time, in its entirety.

(1993 Code, § 210.03) (Ord. 2012-05, passed 6-12-2012)

UNCLAIMED PROPERTY

§ 30.30 CUSTODY OF PROPERTY.

The City Manager may provide for the storage of private property other than motor vehicles impounded under this section or which come into the possession of the city in the course of city operations. The City Manager will cause a record to be kept of the property indicating the date and the manner in which the city's possession was acquired. The property will be stored at the City Hall, except that money will be deposited by the Manager in a special account for found money.

(1993 Code, § 215.01)

§ 30.31 DISPOSAL OF PROPERTY.

All property retained in the city's possession for a period of 6 months or longer may be sold to the highest bidder at public auction following 1 week of published notice. The notice will state the time and place of sale and a general description of the property to be sold.

(1993 Code, § 215.02)

§ 30.32 CLAIMS BY OWNER.

During the 6-month period that the property is in the possession of the city, the City Manager may deliver the property to the owner upon receipt of satisfactory proof of ownership. When another person asserts a claim of ownership to the property, delivery may be made only after 10 days' notice by mail to the person who has asserted the claim of ownership. If the party claiming the property is unable to furnish satisfactory proof of ownership, the City Manager may refuse to deliver possession of the property until ordered to do so by a court.

(1993 Code, § 215.03)

§ 30.33 PAYMENT TO GENERAL FUND.

All monies in the possession of the city under this subchapter, together with the proceeds realized from any public sale of private property, will be placed in the city's General Fund. The former owner may receive payment of the amount realized from the sale of the property upon application with attached proof of ownership made within 90 days of the date of sale.

(1993 Code, § 215.04)

§ 30.34 SUMMARY DISPOSAL.

The City Manager may without notice and in the manner as the City Manager deems necessary in the public interest, dispose summarily of any property coming into the City Manager's possession which the City Manager determines to be dangerous or perishable. The City Manager will maintain a record of the pertinent facts with respect to the receipt and disposal of any such property.
(1993 Code, § 215.05)

PUBLIC HEARINGS**§ 30.45 GENERALLY.**

Unless otherwise provided in this code or by state law, every public hearing required by law, ordinance, or resolution to be held on any legislative or administrative matter will be conducted according to this subchapter.
(1993 Code, § 115.01)

§ 30.46 NOTICE.

Every hearing will be preceded by at least 10 days' notice by publication and by mailed notice to all persons entitled to mailed notice by law. Notices of a hearing to consider a rezoning, PUD approval, conditional use permit, permit for relocation of a building or variance will be mailed at least 10 days before the hearing to the owner of the affected property and to the owners of all properties within 350 feet of the affected property. The notice will state the time, place, and purpose of the hearing. Failure to give notice or defects in the notice procedure will not invalidate the proceedings if a good faith effort has been made to comply with this section.
(1993 Code, § 115.02)

§ 30.47 HEARING.

At the hearing, each party in interest will be afforded a reasonable opportunity to be heard and to present the evidence as is relevant to the proceeding. The City Council may adopt rules governing the conduct of hearings, including time limitations for presentation of evidence, records to be made, and any other matter which the City Council deems appropriate.
(1993 Code, § 115.03)

§ 30.48 RECORD.

After a decision on a matter, the City Council will have a written summary of its findings and decisions prepared and will enter the summary in the official City Council minutes.
(1993 Code, § 115.04)

CHAPTER 31: CITY COUNCIL AND OFFICIALS

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§ 31.01 MEETINGS.

(A) *Regular meetings.* Regular meetings of the City Council will be held on the second and fourth Tuesday of each calendar month at 7:00 p.m. Any regular meeting falling upon a holiday will be held at 7:00 p.m. on a day to be determined by the City Council. All regular meetings and adjourned regular meetings will be held in the City Council Chambers in the City Hall unless the City Council determines that a regular meeting should be held elsewhere, in which case notice of the time and place of the meeting will be posted on the door entrances to the City Hall and, if time permits, published in the official newspaper.

(B) *Special meetings.* The Mayor or any 2 members of the City Council may call a special meeting of the City Council by notifying the City Clerk of the time, place, and purpose of the meeting. Unless a special meeting date and time is set by the City Council at a City Council meeting, the Clerk shall give each City Councilmember at least 3 days' notice of the meeting. The notice will specify the time, place, and purpose of the meeting and will identify the person or persons who called the meeting. The notice will be delivered to the City Councilmember personally or to the City Councilmember's home by mail. When written notice of a special meeting is not given in accordance with this subdivision, a meeting attended by all the members of the City Council or where any member unable to attend gives written

notice to the City Council that he or she waives written notice of the special meeting, will be a valid special meeting for the transaction of any business that comes before the meeting. Only business specified in the notice of the special meeting will be transacted and voted on at the special meetings, unless the meeting is attended by all members of the City Council and the additional items brought forth are approved for discussion by a majority of the City Council.

(C) *Public meetings.* All City Council meetings, including special and adjourned meetings and meetings of City Council committees, will be open to the public, except as otherwise provided by law.

(D) *First meeting of the year.* At the first City Council meeting in January of each year or as soon after as reasonably possible, the City Council will:

- (1) Designate the repository or depositories for city funds;
 - (2) Designate the legal newspaper for the city; and
 - (3) Designate an acting Mayor (Mayor Pro Tem) from the City Councilmembers, who will perform the duties of the Mayor during the Mayor's disability or absence from the city or, in case of a vacancy in the Office of Mayor, until a successor has been appointed and qualified.
- (1993 Code, § 200.01) (Ord. 07-003, passed 9-11-2007)

§ 31.02 PRESIDING OFFICER.

(A) *Mayor.* The Mayor will preside at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tem will preside. In the absence of both, a presiding officer will be chosen from the members present.

(B) *Order during meetings.* The presiding officer will preserve order, enforce the City Council's rules of procedure, and determine, with open discussion of the City Council in the event of an appeal by any City Councilmember, all questions of procedure and order.

(1993 Code, § 200.02)

§ 31.03 MINUTES.

(A) *Content.* Minutes of all City Council meetings will be prepared and kept by the Clerk or other person designated by the presiding officer. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the Clerk and can be accurately identified from the description given in the minutes.

(B) *Recording and approval.* The minutes of each meeting will be reduced to typewritten form and will be signed by the Clerk. Copies of the minutes with the agenda for the next meeting will be delivered to each City Councilmember as soon as reasonably practicable after the meeting. At the next regular City Council meeting following the delivery, approval of the minutes will be considered by the

City Council, with any proposed additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the City Council. If there is an objection, the City Council will vote upon the addition or correction. The minutes will be approved by vote of the City Council.

(1993 Code, § 200.03)

§ 31.04 ORDER OF BUSINESS.

(A) *Preparation of agenda.* An agenda of business of each regular City Council meeting will be prepared and filed in the office of the Clerk no later than 12:00 p.m. on the Monday before the meeting. Information or other items must be given to the Clerk no later than 12:00 p.m. on the Friday before the meeting to be included in the agenda. Copies of the agenda will be delivered to each City Councilmember and to the City Attorney as far in advance of the meeting as time for preparation permits. No item of business will be considered unless it appears on the agenda for the meeting, or is approved for addition to the agenda by a majority vote of the City Council.

(B) *Order of agenda.* Generally, the order of business will be in accordance with the agenda, but it may, with approval of the City Council, be varied at the discretion of the presiding officer. However, all public hearings will be held at the time specified in the notice of hearing.

(1993 Code, § 200.04)

§ 31.05 QUORUM AND VOTING.

(A) *Quorum.* The presence of 3 City Councilmembers constitutes a quorum. A majority vote of all members of the City Council is necessary for approval of any ordinance unless a larger number is required by statute. Except as otherwise provided by statute or ordinance, a majority vote of a quorum will prevail in all other cases.

(B) *Voting.* The votes of each member of any question pending before the City Council will be recorded in the minutes except as provided in division (C) below. If any City Councilmember present does not vote, the Clerk will so indicate in the minutes.

(C) *Vote recording.* When the meeting minutes show a resolution or motion was adopted without showing how each City Councilmember voted, it will be considered a unanimous vote in which all City Councilmembers present voted in favor of the resolution or motion.

(1993 Code, § 200.05)

§ 31.06 ORDINANCES, RESOLUTIONS, AND PETITIONS.

(A) *Readings.* Every ordinance will be presented in writing and will receive 3 readings before the City Council prior to final adoption, except that rezonings or other zoning ordinance amendments shall require only 1 reading. However, an ordinance may be adopted at the meeting in which it is first read or at a subsequent meeting if the City Council rules are suspended for that purpose. Every ordinance introduced will be recorded in the minutes by title.

(B) *Signing and proof of publication.* Every ordinance and resolution passed by the City Council will be signed by the Mayor, attested by the Clerk, and will be numbered, recorded, and filed in an ordinance or resolution book within 20 days after its publication. Proof of publication of every ordinance will be attached to and filed with the ordinance. No resolution will be published unless the laws of the state require it to be published or unless it is directed to be published by the City Council.

(C) *Repeals and amendments.* Every ordinance or resolution repealing or amending all or a part of a previous ordinance or resolution will give both the title and the number of the ordinance, resolution, or code section to be repealed or amended. Every amending ordinance or resolution also will set forth in full each section or subdivision to be amended.

(D) *Petitions.* Every petition or other communication addressed to the City Council will be in writing and will be read in full upon presentation to the City Council unless the City Council dispenses with the reading. Each petition or other communication will be referenced in the minutes.

(1993 Code, § 200.06)

§ 31.07 COMMITTEES.

Committees may be appointed by the City Council from time to time with duties as may be required and defined by a majority action of the City Council. Any matter brought before the City Council for consideration may be referred by City Council action to an appropriate committee for a report and recommendation. Each written committee report will be signed by a majority of the members and will be filed with the Clerk prior to the City Council meeting at which it is to be submitted. Minority reports may be submitted and will be attached to the majority report.

(1993 Code, § 200.07)

§ 31.08 CITY ATTORNEY.

All city matters referred to the City Attorney shall be referred to the Attorney through the City Manager; provided, however, that a City Councilmember may contact the City Attorney directly for advice on, or preparation of, an ordinance, resolution, or motion which the City Councilmember desires to consider or introduce at a City Council meeting. In connection with any such request from a City

Councilmember, the City Attorney shall keep a record indicating the name of the City Councilmember, the date the request was made and the subject matter of the request. The Attorney will from time to time, and when requested, submit a copy of the record to the City Council.

(1993 Code, § 200.08)

§ 31.09 EXPENSES OF THE CITY COUNCIL.

All claims for reimbursement of expenses by members of the City Council must be approved by the City Council before payment of the claim by the Treasurer. A written report of the proceedings of all meetings, conferences, schools, and other similar events attended by a City Councilmember for which expenses are claimed shall be submitted to the City Council.

(1993 Code, § 200.09)

§ 31.10 INFORMATION TO RESIDENTS.

No City Councilmember will submit, send, or cause to be distributed, at city expense, for general distribution, any written material pertaining to or referring to any policy of the city, or indication of the City Council's general feeling or position with respect to any city matter, or action taken by the City Council, without prior approval of the City Council.

(1993 Code, § 200.10)

§ 31.11 SUSPENSION OR AMENDMENT OF RULES.

The rules set forth in this chapter, or any part of them, may be temporarily suspended by a majority vote of all the City Councilmembers. The rules may not be repealed or amended except by a majority vote of the whole City Council after notice has been given at a preceding regular City Council meeting.

(1993 Code, § 200.11)

§ 31.12 MAYOR AND CITY COUNCILMEMBER SALARIES.

(A) *Mayor.* The salary of the Mayor is \$725.00 per month.

(B) *Mayor pro tem.* The salary of the Mayor pro tem is \$663.00 per month.

(C) *Councilmembers.* The salary of each Councilmember other than the Mayor or Mayor pro tem is \$600.00 per month.

(D) *Duration.* The salaries established in this Section will remain in effect until amended in accordance with M.S. § 415.11 (Ord. Amend. 2012-09 approved 11/13/12)(Ord. Amend. 2015-05 approved 10/13/2015)

CHAPTER 32: CITY ORGANIZATIONS

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PLANNING COMMISSION**§ 32.01 CHARACTER.**

The Planning Commission of the city is the planning agency within the meaning of M.S. § 462.351 through 462.365, as they may be amended from time to time. In that capacity, the Planning Commission will be advisory to the City Council.

(1993 Code, § 305.01)

§ 32.02 MEMBERSHIP.

(A) The Commission will consist of 7 members, all of whom will be residents of the city appointed by affirmative vote of a majority of the members of the City Council. Three members were appointed for a 3-year term expiring 12-31-1985, 2 members were appointed for a 2-year term expiring 12-31-1984, and 2 members were appointed for a 1-year term expiring 12-31-1983.

(B) All subsequent appointments or renewals will be for a 3-year term except where a vacancy occurs in the middle of a term, in which case the appointment will be for the duration of the unexpired term.

(C) A member whose term is expiring must be notified by the City Manager 60 days in advance of expiration of the term, and the member must indicate in writing his or her desire to be reappointed to another term.

(1993 Code, § 305.02)

§ 32.03 VACANCIES.

(A) Any of the following will cause the office of a Planning Commission member to become vacated:

- (1) Death;
- (2) Disability or failure to serve;
- (3) Removal of legal residence from the city;
- (4) Resignation in writing;

(5) Failure to uphold the oath of office; and/or

(6) Failure to attend 4 or more scheduled meetings of the Planning Commission in a calendar year, unless waived by the City Council after a written request from the member.

(B) The city will publish an open invitation to all residents interested in serving on the Planning Commission to inform the City Manager in writing of their interest and desire to be interviewed.

(1993 Code, § 305.03)

§ 32.04 COMPENSATION.

Planning Commission members shall be compensated at \$35 per meeting attended and the Chair will be compensated at \$45 meeting attended. The compensation will be effective January 1, 2015.

(1993 Code, § 305.04) (Am. Ord. 2009-003, passed 2-24-2009) (Am. Ord. 2014-04, passed 11-10-2014)

§ 32.05 ORGANIZATION.

The City Manager will appoint a Secretary, who may but need not be a member of the Commission. The Commission will hold 1 regular meeting every month, when necessary. At the first meeting of each year, the Commission will arrange the dates of its regular monthly meetings through the end of that year. Prior to the first meeting of each year, the City Council will appoint a Chair and Vice Chair.

(1993 Code, § 305.05) (Am. Ord. 2014-04, passed 11-10-2014)

§ 32.06 POWERS AND DUTIES.

The Planning Commission will:

(A) Review and make recommendations to the City Council as to a comprehensive municipal plan, including the land use plan, a community facilities plan, a transportation plan, and recommendations for plan adoption and execution;

(B) Consider and make recommendations to the City Council as to all proposed subdivisions and plats;

(C) Consider and make recommendations to the City Council as to all proposed amendments to Chapters 151 and 152 of this code regarding subdivisions and zoning;

(D) Consider, hold hearings, and make recommendations on conditional use permit applications;

(E) Review all applications for variance to zoning, hold hearings, and make recommendations to the City Council; and

(F) Review requests for sign variances.
(1993 Code, § 305.06)

§ 32.07 PLANNING COMMISSION BYLAWS.

(A) A schedule of meeting dates shall be established and may be changed or altered at any regular scheduled meeting. One regular meeting date is established each month on the fourth Monday at 7:00 p.m. in the City Council Chambers. (2012-06; Eff. 10-1-12)

(B) Additional meetings may be held at any time upon the call of the Chair or by majority of the voting members of the Commission or upon the request of the City Council following at least 24-hour notice to each member of the Commission.

(C) Prior to the first regular meeting of each year, the City Council shall appoint a Chair and Vice Chair. (Am. Ord 2014-04, passed 11-10-2014)

(D) The duties and powers of the officers of the Planning Commission shall be as follows:

(1) Chair:

(a) Preside at all meetings of the Commission;

(b) Call, amend, or cancel meetings of the Commission in accordance with the bylaws; and

(c) Before scheduled meetings, review agenda with staff.

(2) Vice Chair: during the absence, disability, or disqualification of the Chair, the Vice Chair shall perform all the duties and be subject to all the responsibilities of the Chair; and

(3) Recording Secretary: appointed by the City Manager to record the proceedings of all the meetings.

(E) Matters referred to the Commission by the City Council shall be placed on the calendar for consideration and action at the first meeting of the Commission after the reference.

(F) Four members of the Commission shall constitute a quorum for the transaction of business.

(G) Reconsideration of any decision of the Commission may be had when the interested party of the reconsideration makes a showing, satisfactory to the Chair and/or City Manager that without fault on the part of the party essential facts were not brought to the attention of the Commission.

(H) *Robert's Rules of Order* are hereby adopted for the government of the Commission in all cases not otherwise provided for in these rules. These rules may be amended at any meeting by a vote of the majority of the entire membership of the Commission, and City Council approval, provided 5 days' notice has been given to each member of the Commission.

(I) Deadlines for agenda: deadline for filing for placement on the agenda for application of any planning related issue shall be exactly 1 month prior to the meeting the applicant desires to be heard.

(J) Order of consideration of agenda items: the following procedure will normally be observed; however, it may be arranged by the Chair for individual items if necessary for the expeditious of business:

- (1) Staff presents report and makes presentation;
- (2) The Planning Commission may ask questions regarding the staff presentation and report;
- (3) Proponents of the agenda items make presentation;
- (4) Any opponents make presentation;
- (5) Applicant make rebuttal of any points not previously covered; and
- (6) Planning Commission asks any questions it may have of the proponents, opponents, or staff, then takes action.

(K) Any member of the Planning Commission who shall feel that he or she has a conflict of interest on any matter that is on the Planning Commission agenda shall voluntarily excuse himself or herself, vacate his or her seat, and refrain from discussing and voting on those items as a Planning Commissioner.

(L) Each member of the Planning Commission who has knowledge of the fact that he or she will not be able to attend a scheduled meeting of the Planning Commission shall notify the City Manager at the earliest possible opportunity and, in any event, prior to 4:30 p.m. on the date of the meeting. The City Manager shall notify the Chair of the Commission in the event that the projected absences will produce a lack of quorum.

(M) The Chair shall be an ex officio member of all committees, with voice but not vote.

(N) The Vice Chair shall succeed the Chair if he or she vacates his or her office before his or her term is completed, the Vice Chair to serve the unexpired term of the vacated office. A new Vice Chair shall be elected at the next regular meeting.

(O) The bylaws may be amended at any meeting of the Planning Commission by a quorum of the Commission, provided that notice of the proposed amendment is given to each member in writing at least 2 weeks prior to the meeting. In addition, any amendment to the Planning Commission bylaws must be approved by the City Council.

(1993 Code, § 305.07)

§ 32.08 CITY COUNCIL ACTION WITHOUT RECOMMENDATION OF THE PLANNING COMMISSION.

If a matter is required to be referred to the Planning Commission and is referred to the Planning Commission and if no recommendation is transmitted by the Planning Commission to the City Council within 60 days after referral to the Planning Commission, the City Council may take action without the recommendation. If a matter not required to be referred to the Planning Commission is referred to the Planning Commission, the City Council may at any time take action without the recommendation of the Planning Commission.

(1993 Code, § 305.08)

PARKS COMMISSION

§ 32.20 PURPOSE.

The City of St. Anthony does now operate and maintain public parks for the benefit and pleasure of its residents. A City Parks Commission is hereby established to advise the City Council regarding the promotion of the systematic, comprehensive, and effective development of park facilities necessary for the overall health, ability, and well-being of city residents of all ages.

(1993 Code, § 306.01)

§ 32.21 MEMBERSHIP.

The Parks Commission will consist of 8 members, 5 voting and 3 nonvoting, all of whom will be residents of the City of St. Anthony. Five of the 8 will be appointed by affirmative vote of a majority of the members of the St. Anthony City Council. There will be 3 nonvoting liaison members, each appointed by their respective organizations. The 3 liaisons will be appointed by the School Board of District #282; St. Anthony Community Services; and, the Sports Boosters of St. Anthony Village.

(1993 Code, § 306.02)

§ 32.22 TERMS OF OFFICE.

(A) Members appointed by the City Council will serve 3-year terms. The first Parks Commissioners will be appointed as follows:

| | |
|-----------|--------------|
| 2 members | 1-year terms |
| 3 members | 2-year terms |
| 2 members | 3-year terms |

(B) Thereafter, members shall be appointed to 3-year terms when the original term of office expires, except where a vacancy occurs in the middle of a term. In which case, the appointment will be for the duration of the unexpired term. The 3 liaison members will serve at the pleasure of their respective organizations and can be replaced at any time. Members of the Parks Commission shall be residents of the City of St. Anthony throughout their term of office.

(1993 Code, § 306.03)

§ 32.23 VACANCIES.

(A) Any of the following will cause the office of a Parks Commission member to become vacated:

- (1) Death;
- (2) Disability or failure to serve;
- (3) Removal of legal resident from the city;
- (4) Resignation in writing;
- (5) Failure to uphold the oath of office; and/or
- (6) Failure to attend 4 or more scheduled meetings of the Parks Commission in a calendar year, unless waived by the City Council after a written request from the Parks Commission member.

(B) The city will publish an open invitation to all residents interested in serving on the Parks Commission to inform the City Manager in writing of their interest and desire to be interviewed for a seat on the Parks Commission.

(1993 Code, §306.04)

§ 32.24 COMPENSATION.

The Parks Commission members shall be compensated at \$25 per meeting attended and the Chair will be compensated at \$35 per meeting attended. The compensation will be effective January 1, 2015.
(1993 Code, § 306.05) (Am. Ord. 2014-04, passed 11-10-2014)

§ 32.25 POWERS AND DUTIES.

The powers and duties of the Parks Commission shall be as follows:

- (A) To prepare, revise, and maintain a comprehensive, long-term plan for the redevelopment of parks within the city. This plan shall be viewed as a working document that serves as a framework and reference to future redevelopment;
 - (B) To make recommendations to and advise the City Council and staff regarding park issues and ideas;
 - (C) To establish priorities and recommend a phasing plan and schedule for implementing innovative park improvements, renovations, and plans;
 - (D) To work with other communities to explore cooperative arrangements to develop connecting routes in the form of bikeways, walking paths, and corridors of green space wherever possible;
 - (E) To investigate funding sources, including requests for increases in the city budget, designated for parks and green spaces;
 - (F) To seek new areas for additional parks, natural areas, walking paths, bikeways, and green space corridors;
 - (G) To generate community involvement in the development of parks and their elements;
 - (H) To review and recommend revisions to the operation and maintenance of city parks; and
 - (I) To periodically review, re-evaluate, and update the comprehensive park plan to reflect current and future park needs of the city.
- (1993 Code, § 306.06)

§ 32.26 PARK COMMISSION BYLAWS.

- (A) A schedule of meeting dates shall be established and changed or altered at any regularly scheduled meeting between the Chair and Public Works Director.

(B) Additional meetings may be held at any time upon the call of the Chair or by a majority of the voting members of the Parks Commission or upon request of the City Council following at least 24 hours' notice to each member of the Commission and adhering to the requirements of the Open Meeting Law.

(C) Prior to the first regular meeting of each year, the City Council shall appoint a Chair and Vice Chair. (Am. Ord. 2014-04, passed 11-10-2014)

(D) The duties and powers of the members of the Parks Commission shall be as follows:

(1) Chair:

(a) Preside at all meetings of the Parks Commission;

(b) Call, amend, or cancel meetings of the Parks Commission in accordance with the bylaws; and

(c) Review agenda with staff prior to the scheduled meeting.

(2) Vice Chair: during the absence, disability, or disqualification of the Chair, the Vice Chair shall exercise or perform all the duties and be subject to all the responsibilities of the Chair; and

(3) Secretary: record the proceedings of all meetings.

(E) Matters referred to the Parks Commission by the City Council or School Board shall be placed on the calendar for consideration and action at the first meeting of the Parks Commission after the referral.

(F) Three members of the Parks Commission shall constitute a quorum for the transaction of business.

(G) Reconsideration of any decision of the Parks Commission may be had when the interested party for the reconsideration makes a showing, satisfactory to the Chair and/or Public Works Director that without fault on the part of the party, essential facts were not brought to the attention of the Parks Commission.

(H) *Robert's Rules of Order* are hereby adopted for the government of the Parks Commission in all cases not otherwise provided for in these bylaws. The bylaws can be amended at any meeting by a vote of the majority of the entire membership of the Parks Commission, and by City Council and School Board approval, provided 5 days' notice has been given to each member of the Parks Commission.

(I) Deadline for filing for placement on the agenda for any related parks issue shall be exactly 1 week prior to the meeting the applicant desires to be heard.

(J) Any member of the Parks Commission who shall feel that he or she has a conflict of interest on any matter that is before the Parks Commission shall voluntarily excuse himself or herself, vacate his or her seat, and refrain from discussing and voting on item(s) in question.

(K) Any Parks Commissioner who has advanced knowledge that he or she will not be able to attend a scheduled meeting of the Parks Commission, shall notify the Public Works Director at the earliest possible opportunity and, in any event, prior to 3:30 p.m. on the date of the meeting. The Public Works Director shall notify the Chair of the Parks Commission in the event that the projected absences will produce a lack of quorum.

(L) The Vice Chair shall succeed the Chair if he or she vacates his or her office before his or her term is completed; the Vice Chair to serve the unexpired term of the vacated office. A new Vice Chair shall be elected at the next regular meeting.

(M) The bylaws may be amended at any meeting of the Parks Commission by a quorum of the Parks Commission, provided that notice of the proposed amendment be given to each member in writing at least 2 weeks prior to the meeting. In addition, any amendment to the Parks Commission bylaws must be approved by the City Council and School Board.

(1993 Code, § 306.07)

§ 32.27 CITY COUNCIL ACTION WITHOUT RECOMMENDATION OF THE PARKS COMMISSION.

If a matter is referred to the Parks Commission and if no recommendation is transmitted by the Parks Commission to the City Council after referral to the Parks Commission, the City Council make take action without the recommendation.

(1993 Code, § 306.08)

§ 32.28 REQUESTS.

All requests shall be submitted to the Planning Commission for review before the request is submitted to the City Council.

(1993 Code, § 306.09)

§ 32.29 STAFF LIAISON.

The Public Works Director or designee will be the staff liaison to the Parks Commission.

(1993 Code, § 306.10)

§ 32.39 TREE CARE.*(A) Definitions*

(1) Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in the public right-of-way within the City.

(2) Park Trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks, and all areas owned by the City, or to which the public has free access as a park.

(B) Creation and Establishment of a City Tree Board

There is hereby created and established a City Tree Board for the City of St. Anthony: which shall consist of the members of the City of St. Anthony Parks Commission, who are appointed by the City Council.

(1) Term of Office. The term of the five persons to be in accordance with the terms of the City of St. Anthony Parks Commission.

(2) Compensation . Members of the board shall serve without additional compensation.

(3) Duties and Responsibilities. It shall be the responsibility of the Board to study, investigate, council, develop and/or update, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City. The Board, when requested by the City Council shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

(4) Operation. The Board may choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(C) Street Tree Species to be Planted. All trees planted must be in compliance with city ordinance.

(D) Spacing. The spacing of Street Trees will be in accordance with the species size classes; except in special plantings designed or at the discretion of the City Manager or designee.

(E) Distance from Curb and Sidewalk. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with city ordinance.

(F) Distance from Street Corners and Fireplugs. No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than 10 feet of any fireplug or at the discretion of the City Manager or designee.

(G) Utilities. No Street Trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility or at the discretion of the City Manager or designee.

(H) *Public Tree Care.* The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(I) *Tree Topping.* It shall be unlawful as a normal practice for any person or firm, to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the board or at the discretion of the City Manager or designee.

(J) *Pruning, Corner Clearance.* Owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(K) *Removal of Stumps.* All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(L) *Arborists License and Bond.* It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, trees within the City without first applying for and procuring a license. The license fee shall be in accordance with the City's fee schedule provided, however, that no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance for bodily injury and property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ord. 2016-02, passed 05-24-16)

PUBLIC SAFETY

§ 32.40 POLICIES.

The City Council has the authority and duty to provide for the government and good order of the city, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare of the residents by means not inconsistent with the Constitutions and laws of the United States and the State of Minnesota.

(1993 Code, § 315.01)

§ 32.41 PURPOSE.

This section is intended to further the policies stated in § 32.40 and to provide for the organization of separate Police and Fire Departments for the city.

(1993 Code, § 315.02)

§ 32.42 MANAGER's DUTIES.

The Manager will see that statutes relating to the city and the laws, ordinances, resolutions, and other official acts of the city are enforced. The Manager will exercise supervision and control over the Police Department and the Fire Department and will be responsible for hiring and firing all supervisory and other members and employees of the Police and Fire Departments.

(1993 Code, § 315.03)

§ 32.43 POLICE DEPARTMENT.

(A) *Responsibilities.* The Police Department will have the duties and responsibilities given in accordance with the Constitutions and laws of the United States and the State of Minnesota, this code and other official acts of the city. The Police Department, under the direction of the Chief of Police, is charged with the protection of all persons and property within the corporate limits of the city, and the other areas as agreed upon by the City Council or required by law. The Police Department will be responsible for prevention of crimes, accidents, and civil disorders, control of traffic, and general enforcement of this code and applicable statutory laws. (Am. Ord. 2012-08, passed 10-23-2012)

(B) *Chief of Police.* The Police Department is under the supervision and direction of a Chief of Police, who will report directly to the Manager. In addition to supervising the Department, the Chief's responsibilities and duties will include, but not be limited to, the following:

- (1) Control and responsibility for all police equipment, including, but not limited to, its use, care, maintenance, and condition;
- (2) Maintenance of a complete record of the statistics and other information as will enable the Chief to make a written monthly activities report to the City Council and any other reports as required by the Manager, by the City Council, and by law;
- (3) Preparation of a report, to be made annually to the City Council at its first meeting in September of each year, with respect to the condition of equipment and the needs of the Police Department;
- (4) Preparation of recommendations to the Manager for the rules and regulations for the operation of the Police Department as the Chief deems desirable to promote effective, efficient, and economical service;
- (5) Responsibility for the proper training and discipline of the members of the Police Department; and
- (6) Preparation of an annual written evaluation of the performance of each member of the Police Department.

(C) *Employees of the Police Department.* The Police Department will be staffed by any assistant supervisory employees, deputy assistant supervisory employees, officers, patrol officers, and other full-time employees as are deemed necessary by the Manager consistent with the budgetary allowances approved by the City Council.

(1993 Code, § 315.04) (Am. Ord. 2009-008, passed 6-23-2009)

§ 32.44 FIRE DEPARTMENT.

(A) *Responsibilities.* The Fire Department will be responsible for fire, and life safety and fire protection for the city in accordance with the Constitutions and laws of the United States and the State of Minnesota, and this code and other official acts of the city.

(B) *Fire Chief.* The Fire Department will be under the supervision and direction of the Fire Chief, who will report directly to the Manager. In addition to supervising the Department, the Chief's responsibilities and duties will include, but not be limited to, the same responsibilities and duties as set forth in § 32.43(B) as they relate to the Fire Department.

(C) *Employees of the Fire Department.* The Fire Department will be staffed by assistant supervisory employees, deputy assistant supervisory employees, firefighters, and other full-time and part-time employees as are deemed necessary by the Manager consistent with the budgetary allowances approved by the City Council.

(D) *Part-time employees.* The complement of full-time firefighters shall be supplemented by a part-time force of firefighters, all of whom will be responsible to the Fire Chief, subject to the Chief's supervision and subject to departmental rules and regulations.

(1993 Code, § 315.05) (Ord. 08-001, passed 4-8-2008)

§ 32.50 EMPLOYEE BACKGROUND CHECKS.

A. Applicants for City Employment

(1) Purpose: The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for City positions.

(2) Criminal History Employment Background Investigations: The City of St. Anthony Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following positions within the city, unless the city's hiring authority concludes that a background investigation is not needed:

All full and part-time positions.

(3) In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau Department of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his/her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the hiring authority, the City Manager.

(4) Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of MN Statute Chapter 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Sections 364.09, the City will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

- a. The grounds and reasons for the denial.
- b. The applicant complaint and grievance procedure set forth in § 364.06.
- c. The earliest date the applicant may reapply for employment.
- d. That all competent evidence of rehabilitation will be considered upon reapplication.

CHAPTER 33: FEES, RATES, AND CHARGES

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FEES, RATES, AND CHARGES ESTABLISHED

§ 33.001 FEES.

The city's fees, rates, and charges for licenses, permits, and municipal services are the amounts set forth in this chapter.

(1993 Code, § 600.01)

§ 33.002 COLLECTION.

Payment of city billings must be made not later than the date specified in the billing. If the amount is not paid when due, a late charge may be added. If a charge is more than 15 days past due, it will be considered delinquent. All delinquent accounts will be certified to the Clerk, who will prepare an assessment roll each year providing for assessment of the delinquent amounts, plus interest at the rate of 8% per annum from the date amounts become delinquent, against the respective properties served. The assessment roll will be delivered to the City Council for adoption on or before the second Tuesday of October of each year. Assessment will not preclude any other legal action to collect delinquent accounts.

(1993 Code, § 600.02) (Am. Ord. 2012-10, passed 11/27/2012)

SEWER**§ 33.015 CHARGES TO OWNER.**

The owner of any property connected with the city sanitary sewer system must pay as basic rental charges for the use of the system the charges set forth in this subchapter.
(1993 Code, § 605.01)

§ 33.016 RESIDENTIAL PREMISES.

(A) *Charges based on water usage.* All single-family, 2-family, and townhouse dwellings will be charged quarterly based upon the number of gallons of water used during the months of January, February, and March of each year, as determined from meter readings obtained by the water meters electronically.

(B) *Leak or malfunction.* The quarterly charge will be based upon the actual meter readings for the first quarter, notwithstanding any leak or malfunction in the plumbing system during the period. If the leak or malfunction is repaired by the city, the quarterly charge will be based upon the greater of 22,500 gallons or the water used during the most recent first quarter for which there was no leak or malfunction in the plumbing system.

(C) *Meter not used in first quarter.* If a person first becomes the occupant of residential premises during or after the first quarter, and in any other case where a water meter is not in use during all of the first quarter, the quarterly charge will be based upon actual usage for the remaining quarters. The charge will be prorated from the date of occupancy.

(D) *Water service from other city.* The occupants of any 1- or 2-family dwelling which is connected to the water system of any other municipality must obtain and submit to the city water meter readings of the type required by § 52.05.
(1993 Code, § 605.02)

§ 33.017 OTHER PREMISES CHARGED QUARTERLY.

All premises other than single-family, 2-family, and townhouse dwellings will be charged quarterly in the same manner as set forth in § 33.016, except that the charge to be paid for each quarter will be based upon the number of gallons of water used during that quarter. The usage for the first quarter will not be the basis for the sewer charges for the remaining 3 quarters of the year.
(1993 Code, § 605.03)

§ 33.018 SEWER CHARGE RATES AND METRO WASTE SURCHARGE.

All sewer charges will be billed at the current rate of \$4.62 per 1,000 gallons, quarterly Collection system charge \$3.20 per residential equivalency unit.

(1993 Code, § 605.04) (Am. Ord. 2009-007, passed 11-24-2009) (Ord. 2012-04, passed 4-10-2012) (Am. Ord. 2014-06, passed 12-9-2014) (Am. Ord 2017-01, passed 03-14-2017)

§ 33.019 MINIMUM CHARGE.

The minimum quarterly sewer charge will be based on 7,500 gallons.

(1993 Code, § 605.05) (Am. Ord. 2009-007, passed 11-24-2009)

§ 33.020 CHECKING WATER METERS.

The city has the right to check water meter readings from time to time on a random basis or when the city believes the meter is not functioning properly.

(1993 Code, § 605.06)

§ 33.021 SEPARATE METERS.

Water which is used for an evaporative cooling system and is not discharged into the sanitary sewer system and is separately metered, will not be included in the meter readings upon which the sewer charges are based.

(1993 Code, §§ 605.07)

§ 33.022 OBJECTIONS TO SEWER CHARGES.

Any owner or occupant having any objection to sewer charges may appeal to the City Council by filing a written appeal with the Clerk. The appeal must fully describe the specific sewer charges included in the appeal, a description of the premises involved, and other relevant facts relating to the sewer charges included in the appeal.

(1993 Code, § 605.08)

WATER**§ 33.035 CHARGES TO OWNER.**

The owner of property connected with the municipal water system must pay the water service charges set forth in this subchapter.

(1993 Code, § 610.01)

§ 33.036 WATER RATES.

Water Usage billing will be computed quarterly based on metered water used according to the tiered rates system below, quarterly Distribution system charge \$3.35 per residential equivalency unit.

(A) Residential.

| RESIDENTIAL | Consumption (gallons) | Rate/per 1,000 gallons |
|--------------------|------------------------------|-------------------------------|
| TIER I | 0-7,500 | \$3.10 |
| TIER II | 7,500-15,000 | \$3.27 |
| TIER III | 15,000-22,500 | \$3.59 |
| TIER IV | 22,500-30,000 | \$4.12 |
| TIER V | Over 30,000 | \$5.17 |

(B) Multi-family. The multi-family quarterly water bill is based on the total consumption divided by the number of units to determine the consumption per unit. Multi-family customers are billed according to the residential tier rate structure.

(C) Commercial.

| COMMERCIAL | Consumption (gallons) | Rate/per 1,000 gallons |
|-------------------|------------------------------|-------------------------------|
| TIER I | 0-7,500 | \$3.10 |
| TIER II | 7,500-53,500 | \$3.27 |
| TIER III | 53,500-175,000 | \$3.59 |
| TIER IV | 175,000-300,000 | \$4.12 |
| TIER V | Over 300,000 | \$5.17 |

(D) Wilshire Elementary.

| WILSHIRE | Consumption(gallons) | Rate/per 1,000 gallons |
|-----------------|------------------------------|-------------------------------|
| TIER I | 0-7,500 | \$3.10 |
| TIER II | 7,500-510,000 | \$3.27 |
| TIER III | 510,000-610,000 | \$3.59 |
| TIER IV | 610,000-710,000 | \$4.12 |
| TIER V | Over 710,000 | \$5.17 |

St. Anthony - Administration

(E) *St. Anthony High School.*

| SAVHS | Consumption (gallons) | Rate/ per 1,000 gallons |
|--------------|------------------------------|--------------------------------|
| TIER I | 0-7,500 | \$3.10 |
| TIER II | 7,500-850,000 | \$3.27 |
| TIER III | 850,000-1,150,000 | \$3.59 |
| TIER IV | 1,150,000-1,450,000 | \$4.12 |
| TIER V | Over 1,450,000 | \$5.17 |

(F) *Happy's Potato Chips.*

| HAPPY'S | Consumption (gallons) | Rate/ per 1,000 gallons |
|----------------|------------------------------|--------------------------------|
| TIER I | 0-7,500 | \$3.10 |
| TIER II | 7,500-3,650,000 | \$3.27 |
| TIER III | 3,650,000-4,650,000 | \$3.59 |
| TIER IV | 4,650,000-5,650,000 | \$4.12 |
| TIER V | Over 5,650,000 | \$5.17 |

(Am. Ord. 2014-06, passed 12-9-2014) (Am. Ord. 2017-01, passed 03-14-2017)

(G) All metered irrigation systems will be charged at the IV (fourth) tier rate for all usage.
(1993 Code, § 610.02) (Am. Ord. 2009-006, passed 11-24-2009)

(H) Annually, all sewer rates will be set by resolution by the City Council.
(Ord. 2012-04, passed 4-10-2012)

§ 33.037 MINIMUM CHARGE.

A minimum charge based on 7,500 gallons per quarter must be paid for all premises served, to cover water pumpage, bookkeeping expenses, and metering expense.
(1993 Code, § 610.03)

§ 33.038 COMMENCING OR DISCONTINUING SERVICE.

A hookup charge of \$105 must be paid before water service to a property is first provided. A charge of \$7.50 will be made for shutting off or turning on the water supply to a premise.
(1993 Code, § 610.04)

2012 S-1

§ 33.039 TESTING METER.

The fee for this service is set by Resolution.

(1993 Code, § 610.05) (Am. Ord. 2012-10, passed 11/27/2012)

§ 33.040 FIRE CONTROL DEVICES.

The fee for this service is set by Resolution.

(1993 Code, § 610.06) (Am. Ord. 2012-10, passed 11/27/2012)

§ 33.041 STREET EXCAVATION.

The permit fee for street excavations for water when a new hookup is not involved is \$50.
(1993 Code, § 610.07)

§ 33.042 WATER METER DEPOSIT.

Repealed: Any outstanding meter deposits on an account will be applied to the final bill and any account with a credit balance will be issued a refund.

(1993 Code, § 610.08) (Am. Ord. 2012-10, passed 11/27/2012)

§ 33.043 UNTIMELY PAYMENT; LATE PAYMENT PENALTY.

The fee for this Ordinance is set by Resolution
(1993 Code, § 610.09) (Am. Ord. 2012-10, passed 11/27/2012)

§ 33.044 CERTIFICATION OF DELINQUENT ACCOUNT BALANCES.

Delinquent account balances greater than \$50.00 and at least two quarters past due will be certified to taxes by November 30th of each year. Accounts significantly exceeding either of these criteria's are considered at-risk and are subject to early certification or water shut-off at the City's directions.

(Am. Ord. 2012-10, passed 11/27/2012)

LICENSE AND PERMIT FEES

§ 33.055 FEES.

Fees for licenses and permits referred to in this subchapter must be paid in the amounts set forth in this subchapter.

(1993 Code, § 615.01)

§ 33.056 BICYCLES.

Bicycles are to be registered under state law. The city has no requirement for licensing or registration of bicycles.

(1993 Code, § 615.02)

§ 33.057 DOG LICENSE.

Repealed 11/22/2016 Ord. 2016-05

§ 33.058 IMPOUNDING FEES.

(A) Impounding fee - \$50, plus \$15 per day; and

(B) Boarding fee for each day or part thereof dog is impounded - amounts to be paid under § 91.40.

(1993 Code, § 615.04)

§ 33.059 STREET EXCAVATION PERMIT.

The fee is set by Resolution as stated in §33.062.

(1993 Code, § 615.05) (Am. Ord. 2012-13)

§ 33.060 OTHER LICENSE FEES.

The fee is set by Resolution as stated in §33.062.

(1993 Code, § 615.06) (Ord. 08-004, passed 5-13-2008) (Am. Ord. 2012-13)

§ 33.061 ESTABLISHMENT OF FEE AMOUNTS.

These fees are set by Resolution as stated in §33.062. The dollar amounts of fees required by this code as stated in the following table. In addition to the application fee, applicants are responsible for the City's out-of-pocket costs for the planner, engineer, attorney and/or other consultants to review the application. To provide for payment of such costs, the applicant will make a deposit (escrow) with the city at the end of the tie of application submittal, in an amount determined by the City Manager. If costs are less than the deposit (escrow), the difference will be billed to the applicant.

BUILDING PERMIT

| <i>Total Valuation</i> | |
|---|---|
| \$1 to \$500 | \$29.50 |
| \$501 to \$2,000 | \$28 for the first \$500 plus \$3.70/additional \$100 or fraction thereof, to including \$2,000 |
| \$2,001 to \$25,000 | \$83.50 for the first \$2,000 plus \$16.55/additional \$1,000 or fraction thereof, to including \$25,000 |
| \$25,001 to \$50,000 | \$464.15 for the first \$25,000 plus \$12.00/additional \$1,000 or fraction thereof, to including \$50,000 |
| \$50,001 to \$100,000 | \$764.15 for the first \$50,000 plus \$8.45/additional \$1,000 or fraction thereof, to including \$100,000 |
| \$100,001 to \$500,000 | \$1,186.65 for the first \$100,000 plus \$6.75/additional \$1,000 or fraction thereof, to including \$500,000 |
| \$500,001 to \$1,000,000 | \$3,886.65 for the first \$500,000 plus \$5.50/additional \$1,000 or fraction thereof, to including \$1,000,000 |
| \$1,000,001 and up | \$6,636.65 for the first \$1,000,000 plus \$4.50/additional \$1,000 or fraction thereof |
| Inspections outside of normal business hours (minimum charge, 2 hours) | \$63.25 per hour |
| Reinspection; fees assessed under provisions of §32.08 | \$63.25 per hour |
| Inspections for which no fee is specifically indicated (minimum charge, 1/2 hour) | \$63.25 per hour |
| Additional plan review required by changes, additions, or revisions to plans (minimum charge, 1/2 hour) | \$63.25 per hour |
| For use of outside consultants for plan checking and inspections, or both | Actual costs** |
| NOTES TO TABLE: * Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved. ** Actual costs include administrative and overhead costs. A plan review fee of 65% of the permit fee will be charged for building permits which require the submittal of plans. Fees for similar plans will be charged in accordance with provisions of Minn. Rules, Chapter 1300.0160, subd. 5. | |

ELECTRICAL PERMITS

| <i>Purpose of Fee:</i> | <i>Description</i> | <i>Amount</i> |
|--|---|----------------------|
| Residential or Commercial Building or Garage Electrical panel change out, repair or service upgrade | Up to 300 amps | \$50.00 |
| | 400 amps | \$58.00 |
| | For each additional 100 amps add | \$14.00 |
| Reconnected circuits | Charge for each | \$3.00 |
| Residential or Commercial Building or Garage New circuits or reconnected circuits spliced outside of electric panel are at full fee | Charge for each up to 30 amps | \$8.00 |
| | Charge for each up to 100 amps | \$10.00 |
| | For each additional 100 amps add | \$5.00 |
| New Home | New Single Family Residence or Building Remodel up to 200 amps and 30 circuits used or less - includes a maximum of 3 inspection trips (There is no maximum fee if the service is larger than 200 amps) | \$150.00 |
| All Remodel Projects | Single Family Residence or Building Remodel Total costs equals required number of inspections trips multiplied by \$35 each or the total cost of the circuits being used whichever is greater, but not both. | |
| | Multi-Family Dwelling with 3 or more Units Each housing unit - up to 200 amps with a meter bank application and 20 circuits or less | \$70.00 |
| | Additional inspection trip | \$35.00 |
| | House Wiring and service is separate. Above fees apply | |
| Transformers | 0 -10 kilovolt-amperes | \$10.00 |
| | 11 - 76 kilovolt-amperes | \$40.00 |
| | over 76 kilovolt - amperes | \$80.00 |
| Retro fit lighting (ballast & lamps only; new fixture is per circuit fee) | for the first 10 fixtures | \$10.00 |
| | each additional fixture | \$0.65 |
| Sign Transformer | | |
| Swimming Pools | per trip plus circuit fees | \$35.00 |
| Street Lights and lot lights | per pole | \$4.00 |
| Traffic Signals | per standard | \$7.00 |
| Remote Control, Signal, fire alarm & energy management | for the first 10 devices | \$10.00 |
| | for each additional device | \$0.65 |

HEATING, AIR CONDITIONING AND REFRIGERATION

| <i>Purpose of Fee</i> | <i>Amount</i> |
|---|----------------------|
| Residential (R-1, R-1A, and R-2) | |
| Each dwelling unit (new construction) | \$150 |
| Other (furnace, gas range, gas dryer, hot water heater, air conditioner, gas piping, duct work, and the like) | \$30 |
| Commercial, light industrial, and multi-family (C, LI, R-3, and R-4) | |
| All | 3% of contract price |
| Add \$20 administrative fee and \$.50 surcharge to all permits | |
| NOTES TO TABLE: The minimum permit fee for commercial, industrial, institutional, or business occupancies is \$20 plus state permit fee surcharge. | |

PLUMBING FEES

| | |
|---|----------------------|
| Residential (R-1, R-1A, and R-2) | |
| First bath | \$100 |
| Each additional bath | \$35 |
| 3/4 bath | \$35 |
| 1/2 bath | \$20 |
| Laundry | \$20 |
| Water softener | \$20 |
| Other | \$30 |
| Commercial, Light Industrial, and Multi-Family (C, LI, R-3, and R-4) | |
| All | 3% of contract price |
| Lawn sprinklers, residential | \$20 |
| Lawn sprinklers, commercial | \$30 |
| Add \$20 administrative fee and \$.50 surcharge to all permits | |

LAND USE FEES

| <i>Purpose of Fee (Code No:)</i> | <i>Amount</i> |
|------------------------------------|--|
| Appeal | \$100 |
| Comprehensive Plan | \$750 and an Escrow deposit of \$1500 for Residential and \$3,500 for Commercial |
| Conditional Use Permits (152.243) | \$200 and an Escrow deposit of \$450 for Residential and \$850 Commercial |
| Easement Vacation | \$200 and an Escrow deposit of \$500 |
| Final Plat | \$500 with an Escrow deposit of \$500 |
| Garage setback permit (152.176) | \$60 |
| Planned Unit Development (152.203) | \$750 with a \$2,500 Escrow deposit |
| Preliminary plat (151.03) | \$500 with a \$500 Escrow deposit |
| Rezoning (152.242) | \$500 with a \$750 Escrow deposit |
| Sign permit (155) | \$75 for cost of \$1 to \$500, plus \$5 for each \$100 over \$500 |
| Sign plan, review (155) | \$75 |
| Site Plan | \$250 with an Escrow deposit of \$450 |
| Subdivision/Lot Split (151.03) | \$250 with a \$1,250 Escrow deposit |
| Variance (152.245) | \$200 and an Escrow deposit of \$450 for Residential and \$850 Commercial |

(1993 Code, §§ 615.07) (Am. Ord. 2011 03, passed 6 28 2011) (Am. Ord. 2012-13, passed 1-8-2013)

§ 33.062 FEES ESTABLISHED BY RESOLUTION.

Fees will be payable to the city in amounts established by resolution of the City Council for miscellaneous items and administrative services, including, without limitation, special assessment searches, accident reports, copying, ordinances, maps, minutes of City Council and various commission meetings, printed forms, and certified copies.

(1993 Code, § 615.08)

CHARGES AND ASSESSMENTS FOR SPECIAL STREET LIGHTS

§ 33.075 MANAGER MAY ORDER CERTAIN WORK DONE.

The City Manager may from time to time order the installation and operation of lighting systems for public streets and sidewalks pursuant to M.S. § 429.101, as it may be amended from time to time, which are in addition to and/or different than the normal street lighting installed and operated at the city's sole expense (hereinafter referred to in this subchapter as special street lighting). The order will state the location and type of the special street lighting work to be done. The Manager will transmit a copy of the order to the Public Works Director, who will then have the work done by entering into contracts for the work with the appropriate public utility company or other appropriate parties.

(1993 Code, § 620.01)

§ 33.076 RECORD OF COST.

The Public Works Director will keep records of and report to the City Clerk the actual cost of all special street lighting work, and, in the case of costs to be charged prior to the time they are incurred, the estimated cost of the work. In either case, the records and reports will include the cost of all special street lighting work done or to be done and all operating costs of the city incurred and to be incurred with respect to the special street lighting.

(1993 Code, § 620.02)

§ 33.077 COLLECTION BEFORE LEVY AS A SPECIAL ASSESSMENT.

All costs incurred or to be incurred for special street lighting or the operation of the special street lighting, or the portion thereof as the City Council by resolution from time to time shall determine to charge under this subchapter, will be charged with the frequency as the City Council by resolution from time to time determines, to each owner of each separate lot or parcel of land benefitted by the special street lighting, in proportion to the benefits conferred upon the lots or parcels. If any charge is made for a cost to be incurred and, based upon subsequent actual costs, is found to be excessive, subsequent charges shall be reduced by the excess, and, if deficient, subsequent charges shall be increased by the deficiency. Any charge not paid in full by November 15 of each year shall be levied as a special assessment against the lot or parcel of land benefitted by the special street lighting.

(1993 Code, §§ 620.03)

§ 33.078 LEVY OF ASSESSMENT.

On or before November 15 of each year, the City Clerk will prepare an assessment roll assessing all costs for the special street lighting reported under this subchapter against each separate lot or parcel of land benefitted by the special street lighting, in proportion to the benefits conferred upon the lots or

parcels. The City Council will examine the assessment roll submitted by the City Clerk, and if satisfactory, will call a public hearing and levy special assessments for any unpaid charges for the special street lighting in accordance with M.S. § 429.061, as it may be amended from time to time. All the special assessments will be payable in a single installment, or the additional annual installments, not to exceed 10, as may be fixed by the resolution approving the special assessments, with interest thereon at the rate fixed in the resolution approving the special assessments, but not to exceed the highest rate allowed by law.

(1993 Code, § 620.04)

§ 33.079 OTHER ORDINANCES AND REMEDIES.

The methods and remedies authorized by this subchapter are in addition to any other methods or remedies available to the city by state statute or city ordinance.

(1993 Code, § 620.05)

STORM WATER FACILITIES

§ 33.090 CHARGES FOR STORM WATER FACILITIES.

| Classification | Charge (per acre) |
|--|-------------------|
| 1 - Cemeteries, parks, golf courses, parks, golf courses, railroads, vacant land | \$62.65 |
| 2 - R-1, R-1a, and R-2 residential | \$60.40 |
| 3 - R-3 Residential | \$60.40 |
| 4 - Schools and institutional uses | \$144.27 |
| 5 - R-4 Residential, churches & manufactured home parks | \$184.01 |
| 6 - Commercial & Industrial | \$229.88 |

§ 33.105 OWNER'S OBLIGATION.

Property owners are responsible for all city charges levied for city services and for work performed by the city because the owner has failed to perform the work as required by this code. If an owner fails to correct conditions which are in violation of any provisions of this code after written notice by the city to do so, the city may correct the conditions and charge the owner the cost and expenses of doing so.

(1993 Code, § 630.01)

§ 33.106 SPECIAL ASSESSMENTS.

If an owner fails to pay the city charges within 30 days after being billed for the charges, the city may levy the amount of the charges plus interest as a special assessment against the property to which the charges pertain. This section applies to all charges which may be assessed under M.S. § 429.101, as it may be amended from time to time, and to all sewer and water charges which may be assessed under M.S. § 444.075, as it may be amended from time to time.

(1993 Code, § 630.02)

§ 33.107 PROCEDURE FOR ASSESSMENT.

Any special assessment levied under this subchapter will be payable in a single installment. With this exception, M.S. § 429.061, 429.071, and 429.081, as they may be amended from time to time, will govern the procedures for levying the special assessments. If delinquent bills from the city are not paid as required in this code, the city may certify the delinquent balance to the County Auditor to be paid with the real estate taxes against the property served, for collection as other taxes are collected.

(1993 Code, § 630.03)

TITLE V: PUBLIC WORKS

Chapter

50. STORM WATER AND SANITARY SEWERS

51. STORM WATER FACILITIES, CHARGES, AND FUND

52. WATER SYSTEM

53. SEWER AND WATER FUNDS

54. TOILETS AND CONNECTIONS TO WATER AND SEWER SYSTEMS

CHAPTER 50: STORM WATER AND SANITARY SEWERS

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- 50.02 Plans to be approved
- 50.03 Prerequisites to issue of permits
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GENERAL PROVISIONS

§ 50.01 MANAGER TO CONTROL.

The Manager, under the direction of the City Council, will have control of the storm water and sanitary sewer systems, repair and maintenance of the systems and connections to the systems.
(1993 Code, § 400.01)

§ 50.02 PLANS TO BE APPROVED.

No storm sewer or sanitary sewer line will be built, repaired, extended, or connected with any public storm sewer or sanitary sewer unless and until all of the provisions of this chapter are complied with and a permit has been issued as provided in this chapter.
(1993 Code, § 400.02) Penalty, see § 10.99

§ 50.03 PREREQUISITES TO ISSUE OF PERMITS.

No storm sewer or sanitary sewer line may be built, repaired, extended, or connected with the public systems, except by a person duly licensed, in accordance with the provisions of this code and M.S. § 326.38, as it may be amended from time to time, relating to the licensing of plumbers, to perform the work; nor shall a permit be issued or approved except when granted to the person. A permit will not be issued until the property owner agrees in writing to pay for the connection and the connection fee established by the City Council.
(1993 Code, § 400.03) Penalty, see § 10.99

§ 50.04 SEWER PERMITS.

All applicants for sanitary or storm sewer permits must be made on forms provided by the City Manager by the person employed to do the work. Before beginning the work, the applicant must file with the City Manager a plan for the work showing the whole course of the line from its connection with

the public sewer to the house or other building, with the location of all branches, traps, and fixtures to be connected to the sewer. The applicant must also file drawings of the sewer proposed to be constructed. If the proposed sewer, as shown in the drawings, complies with the provisions of the plumbing code and other applicable laws, regulations, and ordinances, the permit will be issued.
(1993 Code, § 400.04)

§ 50.05 CONNECTION WITH PUBLIC SEWER.

All work will be in accordance with the plan and drawings approved by the city. The permit holder shall notify the Plumbing Inspector of the progress of the work at the stage in the course of the construction as the Plumbing Inspector may direct. The permit holder must notify the Plumbing Inspector when the construction of the sewer is complete and ready for connection with the public sewer, but before the connection is made. When the inspector signs the connection permit, the sewer may then be connected to the public sewer. Work must be inspected by the Plumbing Inspector after it is completed but before the excavations are filled in.
(1993 Code, § 400.06) Penalty, see § 10.99

§ 50.06 RESPONSIBILITY FOR REPAIRS AND MAINTENANCE.

The owner of property having a building connected to the public sewer system is responsible for all repairs and maintenance of that portion of the sewer system which runs from the building to its connection with a common sewer line, including the connection to the line.
(1993 Code, § 400.07)

§ 50.07 CONSTRUCTION REQUIREMENTS.

All connections with the public sewer must be made with pipe approved under applicable plumbing codes having an internal diameter of 4 inches. No sewer pipe connecting with any public sewer may have a fall of less than 1/4 inch to the foot. All pipes must be inspected and subject to approval by the Plumbing Inspector before the same is laid. After any connection has been laid from a public sewer to the street line, the pipe may not be covered until it has been duly inspected by the Plumbing Inspector and approved. The requirements of § 50.14 regulating excavations in public streets are to be strictly complied with in excavations for sewers.

(1993 Code, § 400.08) Penalty, see § 10.99

§ 50.08 SEPARATE CONNECTIONS.

Every building shall separately and independently connect with the public sewer, and in no instance, with the exception of a single dwelling house, shall an area greater than 25 feet frontage be drained through 1 connection.

(1993 Code, § 400.09) Penalty, see § 10.99

§ 50.09 OBSTRUCTION PROHIBITED.

No refuse or solids of any sort obstructive to the flow of waste water may be placed, thrown, or allowed to enter any public sewer, or allowed to remain in or on any trap or catch basin so as to obstruct the sewer. No person may injure or break or remove any portion of any catch basin, covering flag, gull grating, flush tank or manhole, or any part of any sewer, nor do any act obstructing or in any way interfering with the use of any sewer or the flow of waste water through any sewer.

(1993 Code, § 400.10) Penalty, see § 10.99

§ 50.10 STORM DRAINS.

No property owner or occupant shall cause or permit a storm drain, rain spout, or any other form of drainage or surface drainage to be connected with or to enter any public sanitary sewer.

(1993 Code, § 400.11) Penalty, see § 10.99

§ 50.11 GREASE.

A grease trap and grated slop basin must be constructed under the sink of every laundry, restaurant, or other public cooking establishment.

(1993 Code, § 400.12) Penalty, see § 10.99

§ 50.12 PROHIBITED WASTE.

No person shall cause or permit any of the following items to enter the public sewer systems:

(A) Hazardous waste, hazardous chemicals, flammable or explosive materials, radioactive substances, and toxic chemicals, including those substances listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. § 172.101);

(B) Refuse from butcher shops, rendering establishments, packing houses, and other industrial establishments;

(C) Refuse, either liquid or solid, of the character, quality, or nature that will unreasonably interfere with the ordinary treatment processes of any sewage treatment plant; and/or

(D) Items prohibited by state law.
(1993 Code, § 400.13) Penalty, see § 10.99

§ 50.13 INSPECTION AND REPAIRS.

The Plumbing Inspector has the right to enter upon any premises or into any building within the city at all the reasonable hours, to inspect the sewers and drains and traps and fixtures connected with the sewer. If it is found from the inspection or otherwise that the provisions of law are not being complied with in any respect or that any part of the drainage system is in need of clearing out or repairs, the Plumbing Inspector shall serve a notice upon the owner and the occupant specifying the work to be done to make the sewer system comply with the law, or to put it in good working condition. The notice will also specify the time as is reasonable, considering the amount of work to be done and the nature of the emergency, within which the defects must be remedied. It will then become the duty of every person served with the notice to comply with it; and if the notice is not complied with, the City Council may cause the work to be done at the expense of any person so served.

(1993 Code, § 400.14)

§ 50.14 STREET EXCAVATING.

No person may make any excavation in any street, sidewalk, or public ground without first having secured a permit from the City Manager. The fee for the permit is the amount set forth in Chapter 33. When a fee is paid for a sewer construction permit or a permit to connect with the water supply, the excavation permit for the necessary digging incidental to the installation of the sewer or water pipes shall also be obtained.

(1993 Code, § 400.15) Penalty, see § 10.99

§ 50.15 SURETY BOND.

If the applicant for an excavation permit is any person other than a licensed plumber with a bond already on file, the applicant must file a bond of the same sort required to be filed by every licensed plumber with the City Manager before the permit will be issued.
(1993 Code, § 400.16)

§ 50.16 PROHIBITED DISCHARGES INTO SANITARY SEWER SYSTEM.

(A) No person shall discharge or cause to be discharged any substance not requiring treatment or any substance not acceptable for discharge, as determined by the city, Minnesota Pollution Control Agency, or Metropolitan Council Environmental Services, into the sanitary sewer system. Only sanitary sewage from approved plumbing fixtures may be discharged into the sanitary sewer system.

(B) No person shall discharge or cause to be discharged, directly or indirectly, any storm water, surface water, groundwater, roof runoff, subsurface drainage, or cooling water into the sanitary sewer system. Any person having a roof drain, sump pump, foundation drain, unauthorized swimming pool discharge, cistern overflow pipe, or surface drain connected and/or discharging into the sanitary sewer system shall disconnect and remove any piping or system conveying the water to the sanitary sewer system.

(C) All construction involving the installation of clear water sump pits shall include a sump pump with minimum size 1-1/2 inch diameter discharge pipe. The pipe attachment must be a rigid permanent type plumbing such as PVC or ABS plastic pipe with glued fittings, copper, or galvanized pipe. All discharge piping shall be installed in accordance with the plumbing code and shall be without valving or quick connections or flexible sections which allow redirection of the sump pump discharge into the sanitary sewer system. Discharge piping shall start at the sump pit and extend through the exterior of the building and terminate with not less than 6 inches of exposed pipe. Sump pump discharge location and flow shall be consistent with the approved development drainage plan for the lot. The discharge may not be pumped directly onto any public right-of-way unless approved by the Public Works Director or his or her designee. Any disconnects or openings in the sanitary sewer shall be closed and repaired in compliance with applicable codes.

(D) Every person owning improved real estate that discharges into the city's sanitary sewer system shall allow inspection by authorized city employees or the designated representative of the city of all properties or structures connected to the sanitary sewer system to confirm there is no sump pump, foundation drain, or other prohibited discharge into the sanitary sewer system. Any persons refusing to allow their property to be inspected shall immediately become subject to the surcharge provided in division (G) below.

(E) Any owner of any property found to be in violation of this section shall make the necessary changes to comply with this section and the change shall be verified by authorized city employees or its agents. Any property or structure not inspected or not in compliance with this section by 6-1-2007 shall, following notification from the city, comply within 14 calendar days or be subject to the surcharge as provided in division (G) below.

(F) The city reserves the right to periodically reinspect any property or structure to confirm continued compliance with this section. Any property found not to be in compliance upon reinspection or any person refusing to allow their property to be reinspected shall, following notification from the city, comply within 14 calendar days or be subject to the surcharge hereinafter provided for.

(G) A surcharge of \$100 per month is hereby imposed and shall be added to every sewer billing for any property found not in compliance with this section. The surcharge shall be added every month until the property is determined by the city to be in compliance with this section. The city shall not issue building, plumbing, electrical, or mechanical permits for any property that is not in compliance with this section until the property is determined by the city to be in compliance with this section.

(H) The City Council, upon recommendation of the Public Works Director or his or her designee, shall hear and decide requests for temporary waivers from the provisions of this section where strict enforcement would cause a threat to public safety because of circumstances unique to the individual property under consideration. Any request for a temporary waiver shall be submitted to the Public Works Director in writing. Upon approval of a temporary waiver from the provisions of this section, the property owner shall agree to pay an additional fee for sanitary sewer services based on the number of gallons discharged into the sanitary sewer system as estimated by the Public Works Director or his or her designee.

(I) If a property owner demonstrates a financial hardship to pay for the disconnection cost of a noncompliant system, they may petition the City Council to assess the disconnection cost on the property. Under this petition, the property owner must waive their right to a public hearing and waive their right to appeal the assessments. Assessments initiated in this manner and associated interest charges must be paid back to the city within 5 years.

(J) Violation of this section is a misdemeanor and each day that the violation continues is a separately prosecutable offense. The imposition of the surcharge shall not limit the city's authority to prosecute the criminal violations, seek an injunction in district court ordering the person to disconnect the nonconforming connection to the sanitary sewer, or for the city to connect the violation and certify the costs of connection as an assessment against the property on which the connection was made.
(1993 Code, § 400.17) Penalty, see § 10.99

ILLICIT DISCHARGE AND CONNECTION**§ 50.30 PURPOSE AND INTENT.**

(A) The purpose of this subchapter is to provide for the health, safety, and general welfare of the citizens of the City of St. Anthony through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(B) The objectives of this subchapter are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
 - (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and
 - (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this subchapter.
- (Ord. 2009-002, passed 2-24-2009)

§ 50.31 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED ENFORCEMENT AGENCY. The City of St. Anthony.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. ***BMPs*** also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in this subchapter.

ILLICIT CONNECTIONS. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits as defined in 40 CFR § 122.26 (b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by MPCA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual group, or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and action as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, pesticides, herbicides, and fertilizers; hazardous substances and wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAIN SYSTEM. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORM WATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN. A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
(Ord. 2009-002, passed 2-24-2009)

§ 50.32 APPLICABILITY.

This subchapter shall apply to all water entering the storm drain system generated on any developed or undeveloped lands unless explicitly exempted by an authorized enforcement agency.
(Ord. 2009-002, passed 2-24-2009)

§ 50.33 RESPONSIBILITY FOR ADMINISTRATION.

The authorized enforcement agency shall administer, implement, and enforce the provisions of this subchapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.
(Ord. 2009-002, passed 2-24-2009)

§ 50.34 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this subchapter and minimum standards; therefore this subchapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.
(Ord. 2009-002, passed 2-24-2009)

§ 50.35 DISCHARGE PROHIBITIONS.*(A) Prohibition of illegal discharges.*

(1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

(2) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(a) The following discharges are exempt from discharge prohibitions established by this subchapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one ppm chlorine), fire fighting activities, and any other water source not containing pollutants.

(b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(d) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(B) Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.

(3) A person is considered to be in violation of this subchapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
(Ord. 2009-002, passed 2-24-2009) Penalty, see § 10.99

§ 50.36 SUSPENSION OF MS4 ACCESS.

(A) *Suspension due to illicit discharges in emergency situations.* The City Council may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this subchapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for reconsideration and a hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Ord. 2009-002, passed 2-24-2009)

§ 50.37 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with the permit may be required in a form acceptable to the City Council prior to the allowing of discharges to the MS4.

(Ord. 2009-002, passed 2-24-2009)

§ 50.38 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as may be necessary to determine compliance with this subchapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must

be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility is a violation of a storm water discharge permit and of this subchapter. A person who is the operator of the facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this subchapter.

(7) If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and the city is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 2009-002, passed 2-24-2009)

§ 50.39 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

(A) The city will adopt requirements identifying best management practices (BMPs) of any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S.

(B) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and

non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 2009-002, passed 2-24-2009)

§ 50.40 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. 2009-002, passed 2-24-2009)

§ 50.41 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. that person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. 2009-002, passed 2-24-2009)

§ 50.42 ENFORCEMENT.

(A) *Notice of violation.* Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analysis, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMPs.

(B) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Ord. 2009-002, passed 2-24-2009)

§ 50.43 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation had not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 15 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 2009-002, passed 2-24-2009) Penalty, see § 10.99

§ 50.44 COST OF ABATEMENT OF THE VIOLATION.

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

(Ord. 2009-002, passed 2-24-2009)

§ 50.45 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this subchapter. If a person has violated and continues to violate the provisions of this subchapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. 2009-002, passed 2-24-2009)

§ 50.46 COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this subchapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, and the like.

(Ord. 2009-002, passed 2-24-2009)

§ 50.47 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. 2009-002, passed 2-24-2009)

§ 50.48 CRIMINAL PROSECUTION.

Any person that has violated or continues to violate this subchapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$1,000 per violation per day and/or imprisonment for a period of time not to exceed 90 days. The authorized enforcement agency may recover all attorney's fees, court costs, and other expenses associated with enforcement of this subchapter, including sampling and monitoring expenses.

(Ord. 2009-002, passed 2-24-2009)

CHAPTER 51: STORM WATER FACILITIES, CHARGES, AND FUND

Section

- 51.01 Establishment of Storm Water Facilities Fund
- 51.02 Findings and determinations
- 51.03 Rates and charges
- 51.04 Other land uses
- 51.05 Exemptions
- 51.06 Separate fund
- 51.07 Adjustment of charges
- 51.08 Public hearing and notice
- 51.09 Establishment of a tax lien
- 51.10 Recalculation of charges

§ 51.01 ESTABLISHMENT OF STORM WATER FACILITIES FUND.

Pursuant to M.S. § 444.075, as it may be amended from time to time, the city establishes a Storm Water Facilities Fund and authorizes the imposition of just and equitable charges for the use and availability of storm sewer facilities. For purposes of this chapter, all provisions of M.S. § 444.075, as it may be amended from time to time, relating to storm water facilities are incorporated by reference and are made a part of this chapter.
(1993 Code, § 405.01)

§ 51.02 FINDINGS AND DETERMINATIONS.

(A) In the exercise of its governmental authority and in order to promote the public health, safety, convenience, and general welfare, the city has constructed, operated, and maintained a storm sewer system, including mains, holding areas, and ponds, and other appurtenances and related facilities (the “facilities”). This chapter is adopted in the further exercise of the authority in the future, for the same purposes, and for purposes of financing the cost of building, constructing, reconstructing, repairing, operating, maintaining, enlarging, improving, or in any other manner obtaining, the facilities or any portion of them (the “facilities costs”).

(B) The facilities have heretofore been financed and paid for through the imposition of special assessments and ad valorem taxes. It is now necessary and desirable to provide an alternative method of recovering some or all of the future facilities costs through the imposition of charges as provided in this chapter.

(C) In imposing charges for the facilities (“facilities charges”), it is necessary to establish a procedure designed to make the charges just and equitable. Taking into account the status of completion of the facilities, past methods of recovering facilities costs, the topography of the city, and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future facilities costs on the basis of the expected storm water runoff from the various parcels of land within the city during a standard rainfall event. For purposes of this chapter, a standard rainfall event is defined as a 10-year rainfall of 24-hour duration, assuming Hydrologic Soil Group §B§ soils according to methods in the Hydrology Guide for Minnesota, published by the Soil Conservation Service.

(D) The City Council finds that assigning costs and making facilities charges based upon expected typical storm water runoff cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this chapter undertake to establish a reasonable and practical method for imposing the charges.

(1993 Code, § 405.02)

§ 51.03 RATES AND CHARGES.

(A) Rates and charges for the use and availability of the facilities will be determined by the use of a Residential Equivalent Factor (“REF”). For purposes of this chapter, 1 REF is defined as the ratio of runoff volume (in inches) for a particular land use, to the runoff volume (in inches) for a typical single-family residential lot.

(B) The City Council hereby adopts the charges set forth in § 33.090 for the use and availability of the facilities. The charges to be made against each parcel of land in the city will be determined by multiplying the REF for the parcel, based on actual land use, times the parcel’s acreage, times the facilities charge per acre, except that all R-1, R-1A, and R-2 residential parcels will be presumed to be 1/3 acre per dwelling unit on the presumption that most such parcels in the city are approximately that size and in order to avoid computation of the actual area of every such parcel in the city.

(1993 Code, § 405.03)

§ 51.04 OTHER LAND USES.

Other land uses not listed in the table in § 33.090 will be classified by the Public Works Director by assigning them to classes most nearly like the listed uses from the standpoint of runoff volume for the standard rainfall event. An appeal from the Public Works Director’s determination of the property classification may be made to the City Council.

(1993 Code, § 405.04)

§ 51.05 EXEMPTIONS.

The following land uses are exempt from facilities charges:

- (A) City, county, and state road and highway rights-of-way;
 - (B) Lakes and ponds; and
 - (C) City-owned property.
- (1993 Code, § 405.05)

§ 51.06 SEPARATE FUND.

All facilities charges, when collected, and all moneys received from the sale of any facilities or equipment or any byproducts, will be placed in a separate fund, and used first to pay the normal, reasonable, and current costs of operating and maintaining the facilities. The net revenues received in excess of the costs may be pledged by resolutions of the City Council, or may be used though not so pledged, for the payment of principal and interest on obligations issued as provided in M.S. § 444.075, Subd. 2, as it may be amended from time to time, or to pay the portion of the principal and interest as may be directed in the resolutions.

(1993 Code, § 405.06)

§ 51.07 ADJUSTMENT OF CHARGES.

The City Council may by ordinance adopt policies providing for the adjustment of facilities charges for parcels or groups of parcels, based upon land use data supplied by affected property owners, which data demonstrates a runoff volume for the standard rainfall event substantially different from the REF being used for the parcel or parcels. The adjustment will be made only upon recommendation of the Public Works Director and will not be made effective retroactively.

(1993 Code, § 405.07)

§ 51.08 PUBLIC HEARING AND NOTICE.

The city will hold a hearing prior to determining whether to build, construct, enlarge, or improve facilities financed in whole or in part by the imposition of facility charges. Notice of the hearing will be published in the official city newspaper at least 10 days prior to the date of hearing. Owners of all property adjoining a proposed improvement will be mailed or served with a notice at least 10 days in advance of the hearing. Failure to give mailed notice or any defects in the notice will not invalidate the proceedings.

(1993 Code, § 405.08)

§ 51.09 ESTABLISHMENT OF A TAX LIEN.

Any facilities charges in excess of 90 days past due on October 1 of any year may be certified to the County Auditor for collection with real estate taxes in the following year pursuant to M.S. § 444.075, Subd. 3, as it may be amended from time to time. In addition, the city may bring a civil action or exercise other legal remedies to collect unpaid facilities charges.
(1993 Code, § 405.09)

§ 51.10 RECALCULATION OF CHARGES.

If a property owner or other person responsible for paying facilities charges questions the correctness of the charges, the person may have the determination of the facilities charges recomputed by written request to the Public Works Director. The request must be made within 30 days of the mailing of the billing in question.
(1993 Code, § 405.10)

CHAPTER 52: WATER SYSTEM

Section

- 52.01 Separate connections
- 52.02 Account name and liability
- 52.03 Rates and charges
- 52.04 Meters
- 52.05 Water reading and billing
- 52.06 Right to discontinue service
- 52.07 Taking water without authority
- 52.08 Water restrictions
- 52.09 Sprinkling regulations
- 52.10 Violations
- 52.11 Responsibility for repairs and maintenance

§ 52.01 SEPARATE CONNECTIONS.

Every building other than an accessory building must have a separate water service connection which meets the requirements of state law, this code and the city's Water Department. A hook-up charge in the amount as set forth in Chapter 33 must be paid before water service is connected.
(1993 Code, § 410.01) Penalty, see § 10.99

§ 52.02 ACCOUNT NAME AND LIABILITY.

Applications for water service are to be made on forms provided by the City Manager. All accounts will be carried in the name of the owner of the property served or the owner's lessee who personally, or by an authorized agent, applies for the service. In all cases, including those where application for water service is made by a lessee, the property owner will be liable for water service.
(1993 Code, § 410.02)

§ 52.03 RATES AND CHARGES.

Rates, charges, and prepayments for water use and service will be in the amounts set forth in Chapter 33.
(1993 Code, § 410.03)

§ 52.04 METERS.

For properties in all zoning districts other than R-1, R-1A, R-2, and R-3, meters meeting city specifications shall be purchased and maintained by the property owner at the owner's expense. The city will determine where the water meter will be installed. City employees have the authority to enter upon premises served by city water at any reasonable hour for the purposes of inspection or repair of meter and for turning service on or off. Tampering with meters is prohibited. Once a meter for a property in an R-1, R-1A, R-2, or R-3 district has been paid for by the owner, the city will repair and maintain the meter at city's expense.

(1993 Code, § 410.04) Penalty, see § 10.99

§ 52.05 WATER READING AND BILLING.

(A) *Meter reading.* All water meters will be read quarterly on or before the third day of the months of January, April, July, and October.

(B) *Billing and payment.* Quarterly water statements will be sent out on or around the twentieth day of the months of January, April, July, and October and are payable on or before the twentieth day of the following month. If payment is made by U.S. mail, a bill will be considered paid as of the date of postmark. If the payment date deadline falls on a Saturday, Sunday, or legal holiday, payment may be made on or prior to the first day thereafter on which city offices are open. If payment is not timely made, a late fee in the amount set forth in Chapter 33 is due. If payment on a quarterly statement is not made on or prior to the fifth day of March, June, September, or December respectively, the city retains the right to send a final notice of payment overdue to the customer by certified mail, notifying the customer that: payment must be received at the City Hall within 5 days; failure to make the payment in full within the 5-day period will result in the discontinuance of water service; and the customer has the right to a hearing before the Public Works Director before water service is discontinued, provided the customer has made a request for a hearing within the 5-day period. If a request for a hearing is timely, made by the customer, a hearing will be held in accordance with the provisions of § 52.06. If a payment is not received and a hearing request is not timely made, the city may discontinue service to the customer. A charge will be made to the customer in the case of discontinuance of service for nonpayment of a water bill, and a charge will also be made to the customer for turning on the water service after it has been shut off for nonpayment, each in the amounts set forth in Chapter 33. Payments of any bill must be made at the City Hall, and employees of the Water Department are not authorized to accept payment of any bill. (1993 Code, § 410.05)

§ 52.06 RIGHT TO DISCONTINUE SERVICE.

No water service will be shut off for nonpayment until the customer has been afforded an opportunity for an impartial hearing pursuant to § 52.05(B). If no hearing is requested within the required time, service will be shut off. If a hearing is requested, service will be shut off unless a valid

reason for nonpayment is demonstrated at the hearing. If a hearing is so requested, it will be held by the City Manager or the Manager's designee within 6 working days of the request. If, as a result of the hearing, the City Manager or the Manager's designee finds that the amount claimed to be owing is actually due and unpaid and that there is no legal reason why the water service may not be discontinued, then the city may discontinue water service.

(1993 Code, § 410.06)

§ 52.07 TAKING WATER WITHOUT AUTHORITY.

It is unlawful for any person to use city water service without proper authority.

(1993 Code, § 410.07) Penalty, see § 10.99

§ 52.08 WATER RESTRICTIONS.

To promote and protect the public health, safety, and welfare of the city and its residents, it may be necessary during periods of drought or unusual water use for the City Council to declare the existence of an emergency with respect to the use of city water and to provide for restricted use. The City Council will sit as an Emergency Water Supply Board, which may declare the existence of the emergencies as, and when, it may be necessary to impose and enforce water use restrictions.

(1993 Code, § 410.08)

§ 52.09 SPRINKLING REGULATIONS.

No person may draw or use the city water system for the purpose of watering lawns or gardens during any period of emergency as declared under § 52.08, except during the days and hours permitted. Notice of the emergency and any permitted watering will be given by publication and posting. At no time may a hose larger than 1 inch in diameter be used from any service pipe without special permission of the City Council, and upon payment of a fee set forth in Chapter 33 for the water to be used from the special connection.

(1993 Code, § 410.09)

§ 52.10 VIOLATIONS.

If a person violates the water emergency provisions, the City Council may cause the person's water service to be shut off. Service will not be restored until payment of the fee set forth in Chapter 33.

(1993 Code, § 410.10) Penalty, see § 10.99

§ 52.11 RESPONSIBILITY FOR REPAIRS AND MAINTENANCE.

(A) *R-1, R-1A, and R-2 property owners.* Each owner of single-family residential (R-1), (R-1A), or 2-family residential (R-2) property having a building connected to the public water system is responsible for all repairs and maintenance of that portion of the system which runs from the building to the curb stop, including any connection at the curb stop.

(B) *Owners of property other than R-1, R-1A, and R-2.* The owners of properties other than single-family residential (R-1), (R-1A), and 2-family residential (R-2) having a building connected to the public water system are responsible for all repairs and maintenance of that portion of the system which runs from the building to its connection with a common water line, including the connection to the line. (1993 Code, § 410.11) Penalty, see § 10.99

CHAPTER 53: SEWER AND WATER FUNDS

Section

53.01 Sewer and Water Fund

§ 53.01 SEWER AND WATER FUND.

Net profits from the operation of city sewer and water services will not be transferred to, or considered a part of, general funds or revenues or any other nonbonded debt fund of the city which is separate from those pertaining to the sewer and water services.

(1993 Code, § 415.01)

CHAPTER 54: TOILETS AND CONNECTIONS TO WATER AND SEWER SYSTEMS

Section

- 54.01 Inside toilet and water required
- 54.02 Installation by city
- 54.03 Certain outside toilets and septic tanks declared nuisances
- 54.04 Water supply other than city

§ 54.01 INSIDE TOILET AND WATER REQUIRED.

The owner of every residence or business building abutting upon any street or alley in which city water and sewer lines are maintained must connect with city water service and install a toilet in the building and connect it with the municipal water and sewer lines within 30 days after written notice to do so has been served by the City Manager on order of the City Council. Service may be made on the owner, or authorized agent, personally or by mail sent to the owner's last known address. If the owner cannot be reached by mail so addressed, service may be made upon the occupant.
(1993 Code, § 420.01) Penalty, see § 10.99

§ 54.02 INSTALLATION BY CITY.

If the notice provided for in § 54.01 is not complied with, the City Council may direct installation of a water connection or a toilet and connection with the water and sewer by the city. The cost of the installation or connection will be paid initially from the General Fund and then assessed by the City Council against the property benefitted. If the assessment is not paid within 10 days after the City Manager has served written notice, the City Manager will certify the assessment to the County Auditor for collection in the manner of other special assessments.
(1993 Code, § 420.02)

§ 54.03 CERTAIN OUTSIDE TOILETS AND SEPTIC TANKS DECLARED NUISANCES.

When a toilet is connected with the city water and sewer system, any outside toilet, cesspool, septic tanks, or other sanitation facility on the property will be deemed a nuisance, which must be removed by the owner within 10 days after the connection to the water and sewer system has been made.
(1993 Code, § 420.03)

§ 54.04 WATER SUPPLY OTHER THAN CITY.

It is unlawful for any person other than the city to use or maintain any well, private water system, or open cistern in the city for supplying drinking water.

(1993 Code, § 420.04) Penalty, see § 10.99

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. BICYCLE OPERATION

72. PARKING REGULATIONS

73. TRUCK RESTRICTIONS

74. SNOWMOBILES

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

- 70.01 Definitions
- 70.02 State law
- 70.03 Driver's license required
- 70.04 Stopping before emerging from alley
- 70.05 Backing around corner
- 70.06 Locking ignition
- 70.07 Use of driver's license
- 70.08 Driving after suspension
- 70.09 Blind persons
- 70.10 Unreasonable acceleration

Restrictions on Use

- 70.25 Definition
- 70.26 Places where operation is prohibited
- 70.27 Other restrictions and prohibitions
- 70.28 Leasing
- 70.29 Exceptions

Restriction on Vehicle Sales

- 70.40 Residential districts
- 70.41 Nonresidential districts

GENERAL PROVISIONS**§ 70.01 DEFINITIONS.**

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MOTOR VEHICLE. A vehicle as defined in M.S. § 169.01, Subd. 1, as it may be amended from time to time, which is powered all or in part by a motor or engine.

ROADWAYS. Any street, highway, alley, or similar area in the city designed or intended for motor vehicle travel.

SEMI-PUBLIC PROPERTY. A public parking lot on public or private property and driveways or other vehicle parking or driving areas open to public use for shopping, restaurants, or other purposes. (1993 Code, § 900.01)

§ 70.02 STATE LAW.

The regulatory provisions of M.S. Chapter 169, as it may be amended from time to time, are hereby incorporated into this title by reference and will control the use of roadways and, unless obviously inapplicable, semi-public property, located within the city. (1993 Code, § 900.02)

§ 70.03 DRIVER'S LICENSE REQUIRED.

No person, except those exempted under the provisions of M.S. § 171.03, as it may be amended from time to time, may operate or drive any motor vehicle upon any roadway unless the person has in his or her immediate possession a valid license as a driver under the provisions of M.S. Chapter 171, as it may be amended from time to time. (1993 Code, § 900.03) Penalty, see § 10.99

§ 70.04 STOPPING BEFORE EMERGING FROM ALLEY.

The driver of a vehicle emerging from an alley, driveway, or building must come to a complete stop before driving into a sidewalk area. The driver may then proceed with caution but must yield the right-of-way to all moving vehicles or pedestrians on the roadway or sidewalk entered. (1993 Code, § 900.04) Penalty, see § 10.99

§ 70.05 BACKING AROUND CORNER.

No person may back a vehicle without ample warning, and while backing proper lookout must be maintained. No person may back any vehicle around a corner at an intersection.
(1993 Code, § 900.05) Penalty, see § 10.99

§ 70.06 LOCKING IGNITION.

Every person parking a motor vehicle in an unattended parking area or on a public street or alley shall lock the ignition and remove the key.
(1993 Code, § 900.06) Penalty, see § 10.99

§ 70.07 USE OF DRIVER's LICENSE.

No person shall:

(A) Display, or cause or permit to be displayed, or have in possession any cancelled, revoked, suspended, fictitious, or fraudulently altered driver's license;

(B) Permit his or her driver's license to be used by another; and/or

(C) Display or represent as the person's own any driver's license not issued to that person.
(1993 Code, § 900.07) Penalty, see § 10.99

§ 70.08 DRIVING AFTER SUSPENSION.

No person whose license or nonresident's operating privilege has been cancelled, suspended, or revoked may operate any motor vehicle in the city while the cancellation, suspension, or revocation is in effect.
(1993 Code, § 900.08)

§ 70.09 BLIND PERSONS.

Any person operating a motor vehicle within the city must bring the vehicle to a stop and give the right-of-way at the intersection of any roadway to a blind person carrying a white cane when the blind person enters the intersection by holding out a white cane.
(1993 Code, § 900.09) Penalty, see § 10.99

§ 70.10 UNREASONABLE ACCELERATION.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

UNREASONABLE ACCELERATION. Acceleration which spins a tire resulting in the breaking of traction between a tire and the street or road surface, and which is accomplished in a manner as to cause the emission of squealing or screeching sounds by the tire, or the throwing of sand or gravel by the tire of the vehicle, or both.

(B) *Prohibited.* Unreasonable acceleration, as defined in this section, of any motor vehicle is declared to be a public nuisance and is prohibited.
(1993 Code, § 900.10) Penalty, see § 10.99

RESTRICTIONS ON USE**§ 70.25 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MOTOR VEHICLE. Is deemed to include motorized bicycles, motorcycles, motor scooters, trail bikes, minibikes, all-terrain vehicles, and go-carts.
(1993 Code, § 925.01)

§ 70.26 PLACES WHERE OPERATION IS PROHIBITED.

It is unlawful for any person to operate a motor vehicle in the following places:

(A) On private property of another person, except with the written permission of the owner or lawful occupant of the property. The written permission must be carried on the person operating the motor vehicle at all times while operating the motor vehicle on private property;

(B) On public property, including, but not limited to, parks, playgrounds, school property, sidewalks, recreational areas, golf courses, cemeteries, and wild areas, except as provided in § 70.29; and/or

(C) Public streets and highways, except to the extent permitted by state law.
(1993 Code, § 925.02) Penalty, see § 10.99

§ 70.27 OTHER RESTRICTIONS AND PROHIBITIONS.

No person may operate a motor vehicle:

(A) In a manner so as to create unnecessarily loud or unusual noise which unreasonably disturbs, annoys, or interferes with the peace and quiet of other persons;

(B) Carelessly or heedlessly in disregard of the rights and safety of others, or in a manner so as to endanger any person or property;

(C) While under the influence of alcohol or drugs as defined by state law;

(D) At a speed greater than reasonable or proper under all surrounding conditions and circumstances; and/or

(E) While the motor vehicle has more persons in or on it than it was originally designed by its manufacturer to accommodate.

(1993 Code, § 925.03) Penalty, see § 10.99

§ 70.28 LEASING.

No person shall engage in the business of leasing motor vehicles to others for use on the property of the lessor, or charging or authorizing another person to charge for allowing a motor vehicle to be operated on public or private property within the city without first obtaining approval of the City Council.

(1993 Code, § 925.04) Penalty, see § 10.99

§ 70.29 EXCEPTIONS.

The provisions of this subchapter do not apply to snowmobiles or to golf carts while operated on golf courses.

(1993 Code, § 925.05)

RESTRICTION ON VEHICLE SALES**§ 70.40 RESIDENTIAL DISTRICTS.**

(A) Motor vehicles and recreational vehicles which are permitted within the respective residential district may be advertised for sale and sold provided the vehicle is owned by the resident on whose property the vehicle is parked and to whom the vehicle is currently licensed and is operable.

(B) Commercial vehicles shall not be parked in a residential district and advertised for sale.
(1993 Code, § 926.01) Penalty, see § 10.99

§ 70.41 NONRESIDENTIAL DISTRICTS.

Motor, commercial, and recreational vehicles shall not be displayed “for sale” or sold within nonresidential districts unless the vehicle is owned by the employee of the business where the vehicle is parked and with the consent of the business owner.
(1993 Code, § 926.02)

CHAPTER 71: BICYCLE OPERATION

Section

- 71.01 Generally
- 71.02 Equipment
- 71.03 Parents§ responsibility

§ 71.01 GENERALLY.

All bicycle operators and riders are subject to the following rules:

(A) Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a motor vehicle;

(B) A person riding a bicycle may not ride other than upon a permanent and regular seat attached to the bicycle. No bicycle may be used to carry more persons at 1 time than the number for which it is designed and equipped. No person riding upon any bicycle may attach it or a person to any other vehicle upon a roadway; and

(C) Persons riding bicycles upon a roadway must ride as near to the right side of the roadway as practicable and may not ride more than 2 abreast except on paths or roadways set aside for the exclusive use of bicycles.

(1993 Code, § 905.01) Penalty, see § 10.99

§ 71.02 EQUIPMENT.

Every bicycle in use at night time must be equipped with a lamp on the front which emits a white light visible from a distance of at least 500 feet to the front and with a reflector on the rear of a type approved by the Commissioner of Public Safety which is visible from distances up to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp may be used in addition to the reflector. Every bicycle must be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, and clean pavement.

(1993 Code, § 905.02) Penalty, see § 10.99

§ 71.03 PARENTS'S RESPONSIBILITY.

It is unlawful for the parent of any minor child to authorize or knowingly permit the child to violate any provision of this subchapter.

(1993 Code, § 905.03) Penalty, see § 10.99

CHAPTER 72: PARKING REGULATIONS

Section

General Provisions

- 72.01 Certain stopping and parking prohibited

Private Parking Lots

- 72.15 Regulations

Removal of Abandoned Vehicles and Illegally Parked Vehicles

- 72.30 Definitions
72.31 Vehicles impounded
72.32 Storage of impounded vehicles
72.33 Disposition of impounded vehicles
72.34 Reports of police officers and city impound
72.35 Authorization
72.36 Parking during snow removal
72.37 Parking in excess of 24 hours

GENERAL PROVISIONS

§ 72.01 CERTAIN STOPPING AND PARKING PROHIBITED.

(A) *Rights-of-way.* No person may drive upon or across, stop, leave standing, or park a vehicle, whether attended or unattended, upon any boulevard or other portion of a public right-of-way abutting the traveled portion of a roadway. This prohibition will not apply to driveways which give access from a roadway. In the event of an emergency resulting from vehicle failure in an area where the parking is prohibited, the vehicle operator must attempt where practical to move the vehicle off the traveled portion of the roadway. A clear and unobstructed width of at least 15 feet of the traveled part of the roadway opposite the standing vehicle must be left for the free passage of other vehicles.

(B) *Obstruction of mail boxes.* No person may park a vehicle so as to obstruct a mail box.

(C) *Order to proceed.* No person may stop or park a vehicle on a roadway when directed or ordered to proceed by a police officer.

(D) *Signs and posting.* No person may stop or park a vehicle at any place where official signs prohibit the stopping or parking. When a roadway is temporarily posted by order of the police for the purpose of traffic control, removal of snow, ice, or waste, maintenance, or improvement or otherwise, evidence of the posting constitutes prima facie evidence of the order of the police and notice of same. (1993 Code, § 910.01) Penalty, see § 10.99

PRIVATE PARKING LOTS

§ 72.15 REGULATIONS.

No person may operate a motor vehicle on semi-public property in violation of any official sign, or operate at a speed greater than is safe and reasonable under the conditions then existing, and in no event at a speed in excess of 15 mph. Parking of vehicles on semi-public property must conform to any designated stalls or positions for parking. No vehicles may be parked or allowed to stand in an area designated or used as a lane for moving traffic so as to interfere with the movement of traffic. The Police Department may post signs at any entrance to semi-public property from a roadway to designate 1-way traffic for entrance or exit, and the driver of any vehicle entering or leaving the semi-public property must comply with any 1-way sign so posted. (1993 Code, § 915.01) Penalty, see § 10.99

REMOVAL OF ABANDONED VEHICLES AND ILLEGALLY PARKED VEHICLES

§ 72.30 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED MOTOR VEHICLE. A motor vehicle which:

- (1) Has remained for a period of more than 48 hours on public property illegally or without vital operating component parts;
- (2) Has remained for a period of more than 48 hours on private property without the consent of the person who controls the property;

(3) Remains on private property, is not in a garage and is in such an inoperable condition that it has no substantial potential further use consistent with its usual functions; or

(4) Has been impounded and not reclaimed by its owner within the period prescribed in this section.

CITY IMPOUND. The person or company designated by the Manager to be responsible for towing and storage of vehicles impounded by the city.

MOTOR VEHICLE or **VEHICLE.** A vehicle as defined in M.S. § 169.01, Subd. 1, as it may be amended from time to time, which is powered all or in part by a motor or engine.

VITAL COMPONENT PARTS. Those parts of a motor vehicle essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels. (1993 Code, § 920.01)

§ 72.31 VEHICLES IMPOUNDED.

The following motor vehicles may be impounded by the city impound at the direction of any police officer:

(A) Any unoccupied motor vehicle found in violation of any provision of any traffic or parking provision of this code or resolution of the city, or any disabled or abandoned motor vehicle;

(B) A motor vehicle tagged by a police officer to be impounded, unless the owner or operator of the vehicle appears before the tagged vehicle has been towed, in which case the vehicle will be released without the payment of any fee, other than towing or service charges already incurred; and/or

(C) A motor vehicle directed by a police officer to be impounded because the officer considers possession of the vehicle necessary in the prosecution of a person for violation of law. (1993 Code, § 920.02)

§ 72.32 STORAGE OF IMPOUNDED VEHICLES.

Any vehicle directed to be impounded, from the time it is in possession of the city impound until the time it is released, will be considered to be in the custody of the law. No work may be done on the vehicle by the city impound, nor may the city impound permit anyone to do any work on the vehicle or remove any part, or change or repair any part. (1993 Code, § 920.03)

§ 72.33 DISPOSITION OF IMPOUNDED VEHICLES.

(A) *Notice of impoundment.* When a motor vehicle has been impounded, the Police Department will give notice of the impoundment within 10 days after it is taken into custody. The notice will set forth the date and place of the taking, the year, make, model, and serial number of the vehicle and the place where the vehicle is being held. The notice will inform the owner and any readily identifiable lienholders of their right to reclaim the vehicle, and state that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the prescribed time period will be deemed a waiver by them of all right, title and interest in the vehicle, and a consent to the sale of the vehicle at public auction or by sealed bid. When a motor vehicle is more than 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 will immediately be eligible for sale at public auction or by sealed bid, and will not be subject to the notification provided herein.

(B) *Notice sent by mail.* The notice will be sent by mail to the registered owner, if known, of the impounded vehicle and to all readily identifiable lienholders of record. If it is not reasonably possible to determine the identity and address of the registered owner and all lienholders or record, the notice will be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned.

(C) *Right to reclaim.* The owner or any lienholder of an impounded motor vehicle has a right to reclaim the vehicle upon payment of all towing, storage, and impounding charges resulting from taking the vehicle into custody. The reclamation must occur within 15 days after the date the notice was given. Reclamation may not occur when the police consider the retention of the vehicle necessary for the prosecution of any person for violation of law. The city impound will provide to the Manager a schedule of charges acceptable to the Manager for the towing, storage and impounding of vehicles, and the schedule will be kept in the Police Department. Upon receipt of the release payment, the city impound will release the vehicle by a written release stating the date of the release, together with the enumerated charges and the purpose for which the charges were made. The release must be made in 1 original and 3 copies, all of which must be signed by the city impound and the owner of the vehicle to whom the release is made. The city impound is to retain the original of the release, deliver 1 copy to the owner of the vehicle, 1 copy to the Police Department, and 1 copy to the City Manager.

(D) *Sale of vehicle.* An impounded motor vehicle subject to sale under this subchapter may be sold to the highest bidder at public auction or sale or by sealed bid, following published notice of the sale. The purchaser will be given a receipt in a form prescribed by law, which will be sufficient title to dispose of the vehicle. The receipt will also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The proceeds of the sale of a motor vehicle will be used to pay the cost of towing, storage, and impounding the vehicle, all notice and publication costs, and all other costs reasonably incurred by this city with respect to the vehicle. Any remainder from the proceeds of a sale will be held for the owner of the vehicle or entitled lienholder for 90 days, and thereafter will be deposited in the state treasury. If no bid is received for an abandoned motor vehicle, the vehicle may be disposed of in accordance with division (E) below.

(E) *Disposal of vehicles not sold at public sale.* The city may contract with any person licensed by the Minnesota Pollution Control Agency for the 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. Where no bid has been received for an abandoned motor vehicle, the city may dispose of the vehicle pursuant to the contract.
(1993 Code, § 920.04)

§ 72.34 REPORTS OF POLICE OFFICERS AND CITY IMPOUND.

Traffic tags will be used by police officers when directing the towing and impounding of a vehicle. The tag is to be in the form prescribed by the Chief of Police and will include the make and license number of the vehicle tagged, the date and time of the offense, the nature of the offense charged, and any further information which the Chief of Police deems necessary and advisable. The police officer will, if possible, await the arrival of a tow truck. When a vehicle is towed and impounded, it is the duty of the city impound to keep a “tow sheet” on a form furnished by the Manager, on any tows. The tow sheet must give the description of the vehicle, with an inventory of any personal property visible in the vehicle at the time of the arrival of the vehicle at the city impound. The description and inventory must include the make and license number of the vehicle and the time of arrival at the city impound, together with a statement of information as may be necessary to describe the vehicle and property. All tow sheets will be consecutively numbered. The original and 1 copy of each tow sheet must be delivered to the Police Department, which will deliver a copy to the City Manager.
(1993 Code, § 920.05)

§ 72.35 AUTHORIZATION.

Whenever it is found necessary under any section of this code or state law to remove a vehicle illegally parked on a roadway, any police officer is hereby authorized to provide for the removal of the vehicle to the nearest convenient garage, impound lot, or other place of safety.
(1993 Code, § 920.06)

§ 72.36 PARKING DURING SNOW REMOVAL.

(A) No person shall park a vehicle on any city street for a period of 48 hours, commencing immediately after 2 inches or more of continuous snowfall, or until snow removal has been completed curb to curb.

(B) Whenever it is necessary to the proper direction control, regulation of traffic, plowing and/or the removal of snow, ice, or waste, or maintenance or improvement of any highway or street to remove any vehicle standing on a highway or street in the city, then any police officer is authorized to provide

for the removal of the vehicle and have the same removed to the nearest convenient garage or other place of safety. The cost of removal and storage of the vehicle will be charged to the owner of the vehicle, and to the person causing the violation.

(1993 Code, § 920.07) (Am. Ord. 08-005, passed 5-27-2008; Am. Ord. 2009-005, passed 7-28-2009)
Penalty, see § 10.99

§ 72.37 PARKING IN EXCESS OF 24 HOURS.

If any vehicle is left standing for a period in excess of 24 hours, then the vehicle may be deemed a traffic impediment, and a police officer is authorized to provide for the removal of the vehicle.

(1993 Code, § 920.08)

CHAPTER 73: TRUCK RESTRICTIONS

Section

- 73.01 Trucks prohibited on certain streets
- 73.02 State aid roads excepted
- 73.03 Seasonal load restrictions
- 73.04 Gross weight stencil required
- 73.05 Special permits

§ 73.01 TRUCKS PROHIBITED ON CERTAIN STREETS.

(A) *Weight regulations.* No person may operate or cause to be operated any vehicle having a gross weight in excess of 9,000 pounds, other than a public transportation vehicle, upon any roadway in the city without a permit from the city, unless the roadway is designated a state or county roadway or truck route, or unless necessary for the purpose of delivering or removing goods or materials to or from premises abutting the roadway.

(B) *Residential areas.* No person may stop, park, or leave a vehicle in excess of 9,000 pounds unattended on a roadway or on public or private property in any area zoned residential for a period of more than 2 hours between the hours of 6:00 p.m. and 6:00 a.m., except that a property owner is allowed to park on the owner's property a maximum of 1 camping or recreational type vehicle and is allowed to operate the vehicle upon city roadways for the purpose of ingress and egress to the property.
(1993 Code, § 930.01) Penalty, see § 10.99

§ 73.02 STATE AID ROADS EXCEPTED.

State aid roads within the corporate limits of this city, other than St. Anthony Boulevard, are excepted from the provisions of this chapter.
(1993 Code, § 930.02)

§ 73.03 SEASONAL LOAD RESTRICTIONS.

The Public Works Director may prohibit the operation of vehicles upon all roadways including state aid roads, or impose restrictions as to the weight of vehicles to be operated on all roadways, whenever a roadway, by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged

or destroyed unless the use of vehicles on it is prohibited or the permissible weight allowed is reduced. The Public Works Director will post signs plainly indicating the prohibition or restriction at each end of the affected roadway.

(1993 Code, § 930.03)

§ 73.04 GROSS WEIGHT STENCIL REQUIRED.

It is unlawful for any person to operate a truck within the limits of this city without having the gross weight of the vehicle for which the license tax is paid stenciled in a conspicuous place on each side of the vehicle in letters not less than 2-1/2 inches high and 3/8-inch stroke in a color giving a marked contrast with that of the part of the vehicle on which it is placed, with a good quality paint that will endure throughout the term of the registration. The stenciling must be on a part of the vehicle itself and not on a removable plate or placard of any kind, and must be kept clean and visible at all times.

(1993 Code, § 930.04) Penalty, see § 10.99

§ 73.05 SPECIAL PERMITS.

(A) *Issuance by Public Works Director.* The Public Works Director may, upon application in writing and for good cause shown, issue a special permit, in writing, authorizing the applicant to move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum allowed by this chapter.

(B) *Required information.* The application for any such permit must specifically describe the vehicle or combination of vehicles and loads to be moved and the particular streets for which the use is requested, and the period of time for which the permit is requested.

(C) *Conditions for permits.* The Public Works Director is authorized to issue or withhold the permit at the Public Works Director's discretion. If a permit is issued, the Public Works Director may limit or prescribe conditions of operation of the vehicle or vehicles when necessary to prevent undue damage to the roadway foundations, surfaces, or structures. The Public Works Director may require any undertaking or other security as may be deemed necessary to compensate for any injury or damage to any roadway or road structure. The Public Works Director also may require that the operator or owner of the vehicle or vehicles have in effect, with respect to the operation of the vehicle or vehicles, a policy of liability insurance or bond affording coverage with respect to injury to persons and damage to property.

(D) *Display and inspection of permit.* The permit must be carried in the vehicle to which it refers and must be open to inspection by any police officer or authorized agent of the city.

(1993 Code, § 930.05)

CHAPTER 74: SNOWMOBILES

Section

- 74.01 Interpretation
- 74.02 Definitions
- 74.03 Places where operation prohibited
- 74.04 Operating permitted on Silver Lake
- 74.05 Direct crossing of public streets and highways
- 74.06 Miscellaneous restrictions and prohibition
- 74.07 Youthful operators
- 74.08 Equipment
- 74.09 Driving rules applicable
- 74.10 Leaving snowmobile unattended
- 74.11 Leasing

§ 74.01 INTERPRETATION.

Provisions of this chapter are supplementary to those in M.S. Chapter 84, as it may be amended from time to time, which relate to snowmobiles. This chapter is not to be interpreted as allowing what state law prohibits or as prohibiting what state law expressly allows.
(1993 Code, § 935.01)

§ 74.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMISSIONER. The Commissioner of Natural Resources of the State of Minnesota.

DEADMAN THROTTLE. A device which, when pressure is removed from the engine accelerator or throttle, causes a snowmobile rotor to be disengaged from the driving track.

OPERATE. To ride in or on, or to physically control the operation of a snowmobile.

OPERATOR. Any person who operates or is in actual physical control of the snowmobile.

OWNER. A person other than a lien holder having the property interest in or title to a snowmobile or entitled to the use or possession thereof.

SNOWMOBILE. A self-propelled vehicle designed for travel on snow or ice or natural terrain, steered by wheels, skis, or runners.
(1993 Code, § 935.02)

§ 74.03 PLACES WHERE OPERATION PROHIBITED.

It is unlawful for any person to operate a snowmobile in the places listed in § 70.26, on any lake or pond (except as permitted in § 74.04), or within 100 feet of any fisherman, skating area, sliding area, or skiing area.
(1993 Code, § 935.03) Penalty, see § 10.99

§ 74.04 OPERATING PERMITTED ON SILVER LAKE.

Operation of snowmobiles may take place on Silver Lake between the hours of 8:00 a.m. and 10:00 p.m. and is prohibited at all other times.
(1993 Code, § 935.04) Penalty, see § 10.99

§ 74.05 DIRECT CROSSING OF PUBLIC STREETS AND HIGHWAYS.

To the extent that state law permits snowmobiles to travel on trunk, county state-aid, and county highways within the city, a snowmobile so traveling may make a direct crossing of any street or highway within the city except for an interstate highway or freeway, provided:

(A) The crossing is made at an angle of approximately 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;

(C) The operator yields the right-of-way to all on-coming traffic which constitutes an immediate hazard;

(D) In crossing a divided street or highway, the crossing is made only at an intersection of a street or highway with another public street or highway; and

(E) If the crossing is made between the hours of 1/2 hour after sunset to 1/2 hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.
(1993 Code, § 935.05) Penalty, see § 10.99

§ 74.06 MISCELLANEOUS RESTRICTIONS AND PROHIBITION.

No person may operate a snowmobile contrary to the restrictions in § 70.27 pertaining to motor vehicles, or during the hours from 10:00 p.m. to 8:00 a.m. of any day, or to tow anything other than with a rigid tow bar attached to the rear of the snowmobile.

(1993 Code, § 935.06) Penalty, see § 10.99

§ 74.07 YOUTHFUL OPERATORS.

No person under 14 years of age may make a direct crossing of a roadway as the operator of a snowmobile. A person 14 years of age or older, but less than 18 years of age, may make a direct crossing of a roadway as the operator of a snowmobile only if he or she has in his or her immediate possession a valid snowmobile safety certificate issued by the Commissioner. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated by another person contrary to the provisions of this section.

(1993 Code, § 935.07) Penalty, see § 10.99

§ 74.08 EQUIPMENT.

(A) *Mufflers.* Except as otherwise provided in this chapter, no person may operate a snowmobile without a muffler in good working order which blends the exhaust noise into the overall snowmobile noise and is in constant operation to prevent excessive or unusual noise. The exhaust system may not emit or produce a sharp popping or crackling sound. This section does not apply to organized races or similar competitive events held on private lands, with the permission of the owner, lessee, or custodian of the land; public lands or water under the jurisdiction of the Commissioner, with the Commissioner's permission; or other public lands, with the consent of the public agency owning the land. No person shall have for sale, sell, or offer for sale on any new snowmobile any muffler that fails to comply with the specifications of the Commissioner.

(B) *Lamps and brakes.* No person may operate a snowmobile upon a roadway unless it is equipped with at least 1 head lamp, 1 tail lamp, each of minimum candlepower as prescribed by regulation of the Commissioner, reflector material of a minimum area of 16 square inches mounted on each side forward of the handle bars, and with brakes each of which conforms to the standards prescribed by the Commissioner.

(C) *Deadman throttle.* No person may operate a snowmobile upon any public property, unless it is equipped with a deadman throttle in operating condition.

(D) *Pennant flag.* No person may operate a snowmobile upon a roadway unless it is equipped with a pennant flag of red or blaze colored material, of a size not less than 12 inches x 12 inches x 9 inches, at a height of not less than 6 feet from the ground level at any time when the vehicle is operated on the roadway.

(1993 Code, § 935.08) Penalty, see § 10.99

§ 74.09 DRIVING RULES APPLICABLE.

The provisions of M.S. Chapter 169, as it may be amended from time to time, apply to the operation of snowmobiles on roadways, except those relating to required equipment, and those which by their nature have no application. No person may operate a snowmobile on a roadway in violation of the provisions of M.S. Chapter 169, as it may be amended from time to time.
(1993 Code, § 935.09)

§ 74.10 LEAVING SNOWMOBILE UNATTENDED.

No person may leave or allow a snowmobile to be or remain unattended on public property.
(1993 Code, § 935.10) Penalty, see § 10.99

§ 74.11 LEASING.

No person may engage in the business of leasing snowmobiles to others on the property of the lessor, or charging or authorizing another person to charge for allowing a snowmobile to be operated on public or private property within the city.
(1993 Code, § 935.11) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. WIRELESS TELECOMMUNICATION TOWERS**
- 91. ANIMALS**
- 92. HEALTH AND SAFETY; NUISANCES**
- 93. PARKS AND RECREATION**
- 94. STREETS AND SIDEWALKS**
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CHAPTER 90: WIRELESS TELECOMMUNICATION TOWERS

Section

- 90.01 City Council findings
- 90.02 Purpose
- 90.03 Definitions
- 90.04 Towers and wireless telecommunication facilities building and design standards
- 90.05 Permitted uses/administrative approval
- 90.06 Permitted conditional uses
- 90.07 Applications for towers and WTFs
- 90.08 Nonconforming uses
- 90.09 Removal of abandoned towers and WTFs
- 90.10 Regulation of dish antennas

§ 90.01 CITY COUNCIL FINDINGS.

The Communications Act of 1934, as amended by the Telecommunication Act of 1996, grants the Federal Communications Commission jurisdiction over many aspects of telecommunications services. The city's regulation of towers and WTFs in the city will not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the Act.
(1993 Code, § 1680.01)

§ 90.02 PURPOSE.

(A) The general purpose of this chapter is to regulate the placement, construction, and modification of towers and WTFs in order to protect the health, safety, and welfare of the public, while at the same time encouraging the development of the competitive wireless telecommunications marketplace in the city.

(B) The specific purposes of this chapter are:

- (1) To allow the location of telecommunication towers and WTFs in the city;
- (2) To protect residential areas from potential adverse impact of towers and WTFs;

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(3) To minimize adverse visual impact of towers and WTFs through careful design, siting, landscaping, and innovative camouflaging techniques;

(4) To promote and encourage shared collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers;

(5) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new tower structures to support WTFs;

(6) To avoid potential damage to property caused by towers and WTFs by ensuring the structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound;

(7) To ensure that towers and WTFs are compatible with surrounding land uses;

(8) To overcome the potential adverse impacts that poorly or unregulated towers and WTFs could have on the public health, safety, and welfare; and

(9) Enhance the ability of the providers of telecommunications services to provide the services to the community quickly, effectively, and efficiently.
(1993 Code, § 1680.02)

§ 90.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANTENNA. Any exterior transmitting or receiving device mounted on a tower, building, or other structure and used in communications that radiate or capture electromagnetic waves, digital signs, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

COLLOCATION. The sharing of structures by 2 or more wireless service providers on a single support structure or otherwise sharing a common location.

DISH ANTENNA. A parabolic-shaped antenna (including all supporting apparatus) which is used for transmitting or receiving telecommunication, television, or radio signals, which is located on the exterior of, or outside of, any building or structure.

HEIGHT. When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

MONOPOLE. A slender self-supporting tower used to support telecommunications equipment.

TOWER. Any pole, spire, or other structure, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna or similar apparatus above grade.

WIRELESS TELECOMMUNICATIONS FACILITY (WTF). Any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications (other than radio or television broadcast communications) which a person seeks to locate or have installed upon or near a tower, building, or structure, but shall not include:

(1) Any satellite earth station antenna 2 meters in diameter or less which is located in any light industrial or commercial zoning district;

(2) Any satellite earth station reception antenna 1 meter or less in diameter, regardless of zoning district;

(3) Automatic meter reading systems;

(4) Military, federal, state, and local government communication towers and antennas used for navigational purposes, emergency preparedness, or public safety purposes; and

(5) A WTF to the extent that a permit issued by the Federal Communications Commission or state authority specifically provides that the WTF is exempt from local regulation.
(1993 Code, § 1680.03)

§ 90.04 TOWERS AND WIRELESS TELECOMMUNICATION FACILITIES BUILDING AND DESIGN STANDARDS.

(A) *Generally.* All towers and WTFs must be constructed in accordance with the following standards.

(B) *Specifically.*

(1) *Siting.* WTFs located on or attached to existing structures are regulated by the provisions of the zoning district for each parcel. Towers may only be located on parcels within commercial and light industrial zoning districts (as defined by the city's zoning and land use regulations) and on city-owned property. Towers are not permitted in public rights-of-way.

(2) *Color and architecture.* All WTFs shall be concealed or camouflaged and shall utilize materials, colors, textures, screening, and landscaping to blend in with the surrounding natural setting and built environment. If a WTF is proposed on any part of a building or structure, it must blend with

the structure's design, architecture, and color, including exterior finish. The term "camouflage" shall not mean invisible, but rather appearing as part of another structure, such as a building, wall, or roof, or designed to appear as another structure, such as a building, clock tower, chimney, flag pole, light pole, or tree.

(3) *Landscaping.* The following requirements shall govern the landscaping surrounding towers; provided, however, that the City Council, after considering the recommendation of city staff, may waive the requirements if the visual impact of a proposed tower or WTF would be minimal or if the purposes of this chapter would otherwise be better served thereby.

(a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound.

(b) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer. Existing mature trees and other vegetation at the site shall be preserved to the maximum extent possible.

(4) *Signs.* The use of any portion of a tower or WTF for signs or advertising other than warning or equipment information signs is prohibited.

(5) *Lighting.* WTFs or towers shall not be illuminated by artificial means and shall not display strobe lights unless the lighting is specifically required by the Federal Aviation Administration or other federal or state authority. When incorporated into the approved design of a WTF, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(6) *Monopole.* New towers shall be of a monopole design, without guide wires, unless the City Council determines that an alternative design would better blend into the surrounding environment.

(7) *Setbacks.* Towers and WTFs shall comply with the principal structure setbacks of the underlying zoning district and the following additional standards.

(a) The tower or WTF is set back from all residential dwellings at least 1 foot for each foot in height.

(b) Towers and WTFs shall not encroach upon any easements unless permission is obtained from the underlying property owner and holder of the easement.

(c) Towers and WTFs shall not be located between a principal structure and a public street.

(d) The required setbacks may be reduced or the location in relation to a public street modified, at the sole discretion of the city, when the WTF is integrated into an existing or proposed structure such as a building, light, or utility pole.

(8) *Height.*

(a) The height of any tower shall not exceed 75 feet.

(b) Antennas located on an existing structure that is taller than the limit allowed in the underlying zoning district may extend up to 5 feet above the height of the structure.

(9) *Safety and environmental standards.*

(a) *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with the codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring the tower into compliance with the standards. Failure to bring the tower into compliance within the 30-day period shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(b) *Interference with public safety telecommunications.* No tower or WTF shall interfere with public safety telecommunications. All towers or WTFs shall comply with FCC regulations and licensing requirements.

(c) *Security fencing.* Towers shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anticleimbing device; provided, however, that the City Council, after considering the recommendations of the city staff, may waive the requirements, as it deems appropriate.

(d) *Noise.* If the proposed WTF includes equipment that causes or a WTF otherwise causes significant increased sound levels, sound buffers may be required, including, but not limited to, baffling, barriers, enclosures, walls, and plantings.

(e) *Radio frequency emissions and interference.* WTFs must comply with Federal Communication Commission standards for radio frequency emissions and interference.

(f) *Risk of danger.* Towers and WTFs shall not pose an unreasonable risk of explosion, fire, or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials.

(g) *Maintenance.* All commercial towers or WTFs shall at all times:

1. Be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person; and

2. Allow sufficient access for service vehicles and personnel.

(10) *Collocation requirements.* To every extent possible:

(a) All proposed WTFs shall be placed on an existing tower, building, or structure located within 1/2 mile of the desired location for the proposed WTF;

(b) All wireless telecommunication providers shall cooperate with each other in collocating WTFs and shall exercise good faith in collocating with other licensed carriers and in the sharing of sites, including the sharing of technical information necessary to evaluate the feasibility of collocation. In the event a dispute arises as to a collocation issue, the city may require a third-party technical study to evaluate the feasibility of collocating at the expense of either or both wireless telecommunications providers;

(c) All new towers and any pre-existing tower owned by a wireless telecommunications provider shall be made available for use by the owner or initial user thereof, together with as many other licensed carriers as can be technically located thereon;

(d) If determined appropriate by the city, all new towers shall be designed and constructed in such a manner as to accommodate at least one other comparable WTF in addition to the applicant's; and

(e) All new wireless telecommunications towers that are less than 75 feet shall be designed and constructed in a manner that allows the tower to be expanded to a height of 75 feet in order to allow for future collocation.

(11) *Exceptions to collocation.* The city may waive any or all of the collocation requirements, if it is determined that:

(a) The planned WTF would exceed the structural capacity of the existing or approved tower, building, or structure, as documented by a qualified and licensed professional engineer, and the existing or approved tower, building, or structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment;

(b) The planned WTF would cause interference materially impacting the usability of other existing or planned WTFs at the structure as documented by a qualified radio frequency engineer selected by the city and the interference cannot be prevented; and

(c) No existing tower, building, or structure within an applicant's search radius can or will accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer selected by the city.

(1993 Code, § 1680.04) Penalty, see § 10.99

§ 90.05 PERMITTED USES/ADMINISTRATIVE APPROVAL.

(A) Towers and WTFs shall be a permitted use in a light industrial district, as described in Chapter 152, and on city-owned property. Towers and WTFs proposed in a light industrial district or on city-owned property may be administratively approved.

(B) The following provisions shall govern the issuance of administrative approvals for towers and WTFs.

(1) Each applicant for administrative approval shall submit an application to the City Manager providing the information set forth in § 90.07, when applicable, and a nonrefundable fee as established by resolution of the City Council to reimburse the city for the costs of reviewing the application.

(2) The City Manager shall review an application for administrative approval of a tower or WTF and determine if the proposed use complies with this chapter.

(3) The City Manager shall respond to each such application within 60 days after the filing of the application by either approving or denying the application. If the City Manager fails to respond to the applicant within 60 days, then the application shall be deemed to be approved, unless the time has been extended under M.S. § 15.99, as it may be amended from time to time.

(4) In connection with any such administrative approval, the City Manager may, in order to encourage shared use, or the use of alternative tower structures, administratively waive or modify any zoning district setback requirements in or separation distances between towers by up to 50%.

(5) If an administrative approval is denied, the applicant may file an appeal to the City Council. Any appeal must be filed by the applicant within 30 days of the receipt of the City Manager's decision.

(C) The following uses may be approved by the City Manager after conducting an administrative review:

(1) Locating a tower or WTF, including the placement of additional buildings or other supporting equipment used in connection with a tower or WTF, in any light industrial district or on city-owned property; and/or

(2) Locating antennas on existing structures or towers consistent with the terms of divisions (C)(2)(a) and (C)(2)(b) below:

(a) *Antennas on existing structures.* Any WTF proposed to be affixed to an existing building or structure may be approved by the City Manager as an accessory use to the building or structure, provided:

1. The antenna does not extend more than 30 feet above the highest point of the building or structure;

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2. The antenna complies with all applicable federal regulations; and
3. The antenna complies with all applicable building codes.

(b) *Antennas on existing towers.* Any WTF which is proposed to be attached to an existing tower may be administratively approved by the City Manager and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than 1 carrier on existing towers shall take precedence over the construction of new towers, provided the collocation is accomplished in a manner consistent with the following: a tower which is modified or reconstructed

to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the City Manager allows reconstruction as a monopole.

(1993 Code, § 1680.05) Penalty, see § 10.99

§ 90.06 PERMITTED CONDITIONAL USES.

(A) *Generally.* Unless it is a permitted use in accordance with § 90.05, a tower or WTF shall be permitted only if a conditional use permit has been issued for that use by the City Council. The following provisions shall govern the issuance of conditional use permits for towers or WTFs by the City Council.

(1) Applications for conditional use permits under this section shall be subject to the procedures and requirements of Chapter 152, except as modified in this section.

(2) In granting a conditional use permit, the City Council may impose conditions to the extent necessary to minimize any adverse effect of the proposed tower or WTF on adjoining properties.

(3) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

(4) An applicant for a conditional use permit shall submit the information described in this section and a nonrefundable fee as established by resolution of the City Council to reimburse the city for the costs of reviewing the application.

(B) *Towers.* In addition to any information required for applications for conditional use permits pursuant to Chapter 152, applicants for a conditional use permit for a tower shall submit the following information:

(1) A scaled site plan clearly indicating the location, type, and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the city staff to be necessary to assess compliance with this section;

(2) The legal description of the property on which the proposed tower is to be constructed;

- (3) The setback distance between the proposed tower and the nearest residential property;
- (4) The separation distance from other towers and, if known, the type of construction of the existing tower(s) and the identity of the owner(s)/operator(s) of the existing tower(s);
- (5) A landscape plan showing specific landscape materials;
- (6) Method of fencing, and finished color and, if applicable, the method of camouflage;
- (7) A statement of compliance with all applicable federal, state, or local laws;
- (8) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users;
- (9) A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of a tower or new structure to provide the services to be provided through the use of the proposed new tower; and
- (10) A description of the feasible location(s) of future towers or WTFs within the city based upon existing physical, engineering, technological, or geographical limitations in the event the proposed tower is erected.

(C) *Factors considered in granting conditional use permits for towers.* In addition to any standards for consideration of conditional use permit, applications pursuant to Chapter 152, the City Council shall consider the following factors in determining whether to issue a conditional use permit, no 1 of which shall be conclusive, although the City Council may waive or reduce the burden on the applicant of 1 or more of these criteria if city staff or City Council concludes that the goals of this chapter are better served thereby:

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) Proposed ingress and egress; and

(8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

(D) *Existing facilities.* No new tower shall be permitted unless the applicant demonstrates, to the reasonable satisfaction of the City Council, that there is no existing tower, structure, or alternative technology not requiring a tower or structure that can accommodate the applicant's proposed WTF or tower. An applicant shall submit information requested by the City Council related to the availability of suitable existing towers, other structures, or alternative technology. Evidence submitted to demonstrate that no existing tower, structure, or alternative technology can accommodate the applicant's proposed WTF may consist of any of the following.

(1) No existing tower or structure is located within the geographic area that meet applicant's engineering requirements.

(2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

(3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed WTF and related equipment.

(4) The applicant's proposed WTF would cause electromagnetic interference with 1 or more WTFs on existing towers or structures, or a WTF on the existing towers or structures would cause interference with the applicant's proposed WTF.

(5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(E) *Separation.* All towers for which a conditional use permit is required shall be separated by a minimum of 750 feet between the proposed tower and any pre-existing tower; provided, however, that the City Council, after considering any recommendations of city staff, may reduce the standard separation requirements if the purposes of this chapter would be better served thereby. The separation distance shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.

(1993 Code, § 1680.06)

§ 90.07 APPLICATIONS FOR TOWERS AND WTFs.

(A) *Application.* In addition to an applicant's name, address, proposed site for a WTF antenna or tower, site plan, grading and landscaping plans, written permission of the property owner (unless the property owner is the city), and any other similar information, an application for a conditional use permit, building, or other permit relating to the installation or construction of a WTF or tower, the applicant shall include the following:

(1) A statement indicating that failure to comply with the conditions of approval shall result in the revocation of the permit and removal of the WTF and/or tower;

(2) A statement indicating that the expenses incurred by the city to enforce the provisions of the permit shall be reimbursed by the applicant;

(3) A statement which requires the applicant to utilize the procedures established by the Federal Communications Commission to resolve any complaints received relating to interference allegedly caused by the facility;

(4) A statement indicating the applicant will cooperate in good faith and fair dealing in collocating WTFs;

(5) A statement indicating that the WTF or tower will be maintained in good and safe condition and its original appearance and concealment, disguise, or camouflage elements incorporated into the design at the time of approval shall be preserved. The maintenance shall include, but is not limited to, painting, repair of equipment, and maintenance of landscaping;

(6) A statement authorizing the city to enter the property for the purpose of periodic inspections to determine that the site complies with the provisions of this section, any conditions of approval and all safety and building codes and permits issued. This statement shall give the city the right to conduct the inspections at any time upon reasonable notice to the property owner(s), and that all expenses related to the inspections shall be borne by the applicant;

(7) A statement indicating that the applicant understands that a tower or WTF which has not been used for 12 successive months shall be deemed abandoned and may, at the sole discretion of the city, be required to be removed in the same manner and pursuant to the same procedures as for dangerous or unsafe structures established by M.S. § 463.16, as it may be amended from time to time;

(8) A written acknowledgment of the property owner indicating that the removal of any unused or abandoned tower or WTF or portions of any such towers or WTFs are ultimately the responsibility of the property owner; and

(9) A statement requiring the applicant to notify the city that the WTF continues to be in operation. The notice of continuing operation shall be hand delivered or sent to the City Manager annually by certified mail during the last 2 weeks of the month of December.

(B) *Escrowed funds.* At the time of application for a tower or WTF conditional use or building permit, an escrow deposit shall be posted in an amount determined from time to time by City Council resolution. No interest shall accrue on any such escrowed funds. The city may charge against this deposit to recover its costs for reviewing the tower or WTF application. These costs may include, but are not limited to, city staff time over and above that covered by the application fee, consultants' fees, and fees for third-party review. If a tower or WTF permit is approved, as a condition of approval, deposit of additional escrow funds may be required. The city will charge against this deposit to offset the city's costs to monitor construction and ensure compliance with the conditions of approval and standards in this section. These charges may include, but are not limited to, city staff time, consultants' fees, and fees for third-party review, monitoring, and inspection. Once construction has been completed and the applicant has complied with all conditions of approval, any remaining deposit funds shall be refunded to the party, or entity that posted the escrow deposit. Refunds of the deposit shall not be construed to limit the city's ability to recover future costs associated with review or monitoring on-going operation of the WTF or future modifications, amendments, or transfer of the facility.

(C) *Assessments.* In the event the city incurs charges relating to the enforcement of this section, including, without limitation, expenses relating to third-party consultants and removal of abandoned towers and WTFs, the city reserves the right to assess the property owner for the charges in the same manner in which the city assesses and collects real property taxes.
(1993 Code, § 1680.07)

§ 90.08 NONCONFORMING USES.

(A) *Collocation of additional antennas.* Antennas that are collocated, in accordance with the provisions of this chapter, shall not be deemed to constitute the expansion of a nonconforming use or structure.

(B) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on the preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.

(C) *Rebuilding damaged or destroyed nonconforming towers or antennas.* A nonconforming tower, antenna, or WTF that is damaged or destroyed by wind, storm, fire, or similar acts of God may be rebuilt without having to first obtain administrative approval or a conditional use permit. The type, height, and location of the tower or WTF shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if the permit expires, the tower or antenna shall be deemed abandoned as specified in § 90.09.

(D) *Nonconforming use/abandonment.* A nonconforming tower or WTF that becomes nonfunctional for 30 consecutive days shall be deemed abandoned.
(1993 Code, § 1680.08) Penalty, see § 10.99

§ 90.09 REMOVAL OF ABANDONED TOWERS AND WTFs.

Any tower or WTF that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of the tower or WTF shall remove the same within 90 days of receipt of notice from the city of the abandonment. Failure to remove an abandoned tower or WTF within the 90-day period shall be grounds for the city to remove the tower or WTF at the property owner's expense. If there are 2 or more users of a single tower, then this provision shall not become effective until all users cease using the tower for a continuous period of 12 months.

(1993 Code, § 1680.09)

§ 90.10 REGULATION OF DISH ANTENNAS.

(A) *Permits.* No dish antenna may be erected, constructed, or placed, or re-erected, re-constructed, or replaced, anywhere within the city without first making an application for and obtaining a permit from the city, except for the following:

(1) Dish antennas not greater than 9 square feet in cross-sectional area, which do not exceed 6 feet in height as measured from the base of the dish antenna to the highest point of the dish antenna; and

(2) Dish antennas and towers erected or constructed by the city for city purposes.

(B) *Location.* The following additional requirements apply dish antennas located in any residential district:

(1) Dish antennas greater than 9 square feet in area may not be located on the roof or exterior wall of a principal or accessory building;

(2) Dish antennas may be located only in the rear yard; and

(3) No dish antenna may be located or maintained, at any time, permanently or temporarily, closer to the allowed buildable area of a principal building on any adjacent lot than it is to the principal building on the lot on which it is located.

(C) *Screening.* The Building Official may require, as a condition to a permit, that a dish antenna installed in a nonresidential district be screened from residential districts located within 100 feet of the dish antenna.

(D) *Height.* Dish antennas in residential districts may not be in excess of 12 feet in height, measured from the ground elevation at the base of the dish antenna to the highest point of the dish antenna. In all other zoning districts, dish antennas may have an overall height of no more than 18 feet for either a ground mount or roof mount, as measured from the point at which the antenna is mounted to the roof or the ground elevation to the highest point of the dish antenna.

(1993 Code, § 1680.10)

CHAPTER 91: ANIMALS

Section

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DOGS; GENERALLY**§ 91.01 LICENSE REQUIRED.**

Repealed 11/22/2016 Ord. 2016-05

§ 91.02 IMMUNIZATION FOR RABIES.

(A) All dogs in the city over the age of six months shall be vaccinated for rabies and shall be re-vaccinated according to standard veterinary practices thereafter. A certificate from the veterinarian vaccinating said dogs shall be exhibited to the animal control authority upon demand.

(B) Each dog shall wear a sturdy collar for aid in identification. The dog must wear a veterinarian's metal tag showing proof of current rabies vaccination. In lieu of a veterinarian's metal tag, the dog's collar must contain identification including the name and phone number of the dog's owner. At the owner's discretion, a tattoo or implanted microchip may be used in lieu of the collar and tag.

§ 91.03 ISSUANCE OF TAGS; DUPLICATES.

Repealed 11/22/2016 Ord. 2016-05

§ 91.04 RELEASING IMPOUNDED DOG.

Any dog impounded when not properly licensed will be released only on payment of the appropriate license fee. This may include the impounding fee, and related costs, and the presentation of a current rabies immunization record from a licensed veterinarian.

(1993 Code, § 515.04)

§ 91.05 SPECIAL MULTIPLE DOG LICENSES.

Upon issuance of a special multiple dog license, 3 dogs over 6 months of age may be kept at a licensed premises upon compliance with the following:

(A) *Written approval.* The filing of written approval of the occupants from at least 75% of the residential property within 200 feet of the licensed premises;

(B) *Fenced yard.* The yard of the licensed premises is fenced in such a manner as to restrain dogs on the premises from leaving the yard;

(C) *Nuisance.* Dogs kept on the licensed premises do not create a nuisance by excess barking or by creating unsanitary conditions;

(D) *Fee.* Payment of a yearly license fee pursuant to Chapter 33; and

(E) *Denial of application.* The Chief of Police may deny requests for renewal of a special multiple dog license based upon complaints received during the preceding year. In the event of such a denial, the applicant may, within 10 days of being advised of the denial, request, in writing, a hearing before the City Council on the denial.

(1993 Code, § 515.05)

KENNELS**§ 91.20 LICENSE REQUIRED.**

No person may keep or harbor in any place within the city, except in a licensed kennel, more than 2 dogs over the age of 6 months. Any premises which are kept and maintained for the business of selling, boarding, breeding, showing, or treating dogs, and any place where more than 2 dogs over the age of 6 months are habitually kept, is deemed to be a kennel. No premises may be kept or maintained as a kennel without a kennel license issued by the city after payment of the license fee set forth in Chapter 33. (1993 Code, § 520.01) Penalty, see § 10.99

§ 91.21 CONDITIONS.

Kennels must be kept in a clean, sanitary, and well-ventilated condition at all times. All kennels must be open to inspection by city official's at all reasonable times. No kennel will be maintained within the boundaries of a residential district.

(1993 Code, § 520.02) Penalty, see § 10.99

*ANIMAL CONTROL***§ 91.35 DESTRUCTION OF DOMESTICATED ANIMALS PROHIBITED.**

No person may kill or destroy any dog or other domesticated animal found running at large within the city, except as authorized under this subchapter.

(1993 Code, § 1205.01) (Am. Ord. 08-007, passed 12-8-2008) Penalty, see § 10.99

§ 91.36 DANGEROUS OR DISEASED ANIMALS.

No person may keep on their premises, or on premises occupied by them, nor permit to run at large in the city, any dog or other domesticated animal of a ferocious or vicious character, habit, or disposition as defined by M.S. § 347.50(2). Any animal which is diseased, vicious, dangerous, rabid, or exposed to rabies may be impounded. If the animal cannot be impounded without serious risk to the person attempting to impound the animal, it may be killed immediately by a police officer or other person designated by the Manager.

(1993 Code, § 1205.02) (Am. Ord. 08-007, passed 12-8-2008) Penalty, see § 10.99

§ 91.37 RUNNING AT LARGE PROHIBITED.

No owner or keeper of any dog or other domesticated animal may permit the animal to be at large and must at all times keep the animal under physical restraint. An animal is deemed “at large” whenever it is off the property of the owner or keeper and not under physical restraint.

(Am. Ord. 08-007, passed 12-8-2008) Penalty, see § 10.99

§ 91.38 DROPPINGS.

It is the responsibility of the owner, keeper, or other person in control of an animal to clean up any droppings of the animal and to dispose of the droppings in a sanitary manner.

(1993 Code, § 1205.04) (Am. Ord. 08-007, passed 12-8-2008) Penalty, see § 10.99

§ 91.39 IMPOUNDING.

Police officers or others designated by the City Manager will enforce the provisions of this subchapter, and will impound animals kept or running at large contrary to this subchapter.

(1993 Code, § 1205.05) (Am. Ord. 08-007, passed 12-8-2008)

§ 91.40 RECLAIMING ANIMALS.

(A) *Notice.* When an animal is impounded, the keeper of the pound will provide the police with a description of the animal impounded within 24 hours of the impoundment. The keeper must make a reasonable effort to determine whether a license for the animal has been issued by the city or any adjoining city, and to ascertain the name and address of the person to whom the license was issued. If the license was issued during the preceding license year, then before the animal may be disposed of, by sale or otherwise, the keeper of the pound must give notice to the license holder not less than 24 hours before any disposal of the animal. If the license holder gives notice to the keeper of intent to reclaim the animal, the animal must be kept available for reclaiming for 24 hours after receipt of that notice.

(B) *Payment of fees.* The city may employ or contract with a person or organization for capturing and impounding animals not properly licensed, collared, and tagged, and all other domesticated animals kept in violation of this subchapter. All animals impounded will be kept with kind treatment and sufficient food and water for their comfort for at least 5 regular business days, unless sooner reclaimed by their owners. A dog or other domesticated animal may be reclaimed upon payment by the license holder or owner of the impounding fee set forth in Chapter 33, plus the pound fee and cost of the food and care at the rates established between the pound and the city, plus any medical costs reasonably incurred while the animal was impounded. For each subsequent violation for the same animal, the impounding fee will be double the amount of the previous impounding fee. If an animal which is required to be licensed is unlicensed, the regular license fee must be paid in addition to the foregoing amounts.

(1993 Code, § 1205.06) (Am. Ord. 08-007, passed 12-8-2008)

§ 91.41 QUARANTINE.

If a dog or other animal within the city bites any person or is reported as diseased, the police may require that the animal be impounded at the designated pound for observation for sufficient time to determine whether it is diseased. The animal may not be killed or reclaimed and returned to the owner until ordered by the police. Any animal impounded for having bitten a person, which is subsequently released by the police, may be reclaimed by its owner upon payment of the impounding fee, cost of food and care, and any medical costs incurred while impounded.

(1993 Code, § 1205.07) (Am. Ord. 08-007, passed 12-8-2008)

§ 91.42 DISPOSITION OF ANIMALS.

At the expiration of at least 7 full calendar days, including 5 full regular business days from the time any animal is impounded, except in the case of an animal ordered held in quarantine for a longer period by the police, if the animal has not been reclaimed and the fees paid under § 91.40(B), the keeper of the pound may cause the animal to be humanely killed. Alternatively, the keeper may sell the animal, as abandoned and unclaimed by the owner, to any person upon payment of a sum of money not less than

the license fee and not more than the amount the owner would have to pay to reclaim the dog. Notwithstanding the 5-day limitation, if an animal has not been disposed of, it may be reclaimed upon payment of the amounts provided for in § 91.40(B). For purposes of this section and § 91.40, **REGULAR BUSINESS DAY** means a day on which the establishment having custody of an animal is open to the public for not less than 4 consecutive hours between the hours of 8:00 a.m. and 7:00 p.m. (1993 Code, § 1205.08) (Am. Ord. 08-007, passed 12-8-2008)

§ 91.43 ACCOUNTING OF ANIMALS.

The keeper of the place of impounding must keep an accurate account of all animals impounded, and of all animals killed, sold, or released, together with a record of all moneys received and costs expended. The information will be reported at regular intervals to the city as required by the city. (1993 Code, § 1205.09) (Am. Ord. 08-007, passed 12-8-2008)

§ 91.44 APPEALS.

(A) Any owner who feels aggrieved by a dangerous dog notice or order of the Chief of Police, or the Chief's designee may request a hearing before the City Council, which serves as the city's Hearing Officer, by filing an appeal in writing with the Chief of Police within 14 days after receipt of the notice or order. Upon the filing of such appeal, no further action shall be taken by the city until the matter has been decided by the City Council and all appeals or appeal opportunities have been exhausted. The owner may appear with or without legal counsel and present evidence in opposition to the notice or order. Following the appeals hearing, the City Council shall make a determination of facts and shall, based upon such determination, affirm, repeal, or modify the Police Chief's notice or order. The City 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, in compliance with M.S. § 347.541.

(B) By appointment, the Chief of Police or his or her designee will hear appeals on potentially dangerous dogs. (Ord. 08-007, passed 12-8-2008)

§ 91.45 CONFISCATION.

The animal control authority having jurisdiction shall immediately seize any dangerous dog if:

(A) The owner does not appeal the Police Chief's order within the appeal period.

(B) The dog is not destroyed or permanently removed from the city within 5 calendar days after the City Council has denied an appeal. (Ord. 08-007, passed 12-8-2008)

§ 91.46 REPORT OF DOG BITE.

Any person knowing of a human being bitten by a dog shall immediately notify the Police Department and the dog shall then be confined and kept under observation for a period of 10 days before being disposed of, if necessary.

(Ord. 08-007, passed 12-8-2008)

ANIMALS PROHIBITED AS NUISANCES**§ 91.55 HABITUAL BARKING.**

(A) It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least 5 minutes with less than 1 minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(B) The animal control officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal.

Penalty, see § 10.99

§ 91.56 KEEPING OF CERTAIN ANIMALS.

No person may keep swine, cattle, horses, goats, or more than 2 dogs or 3 dogs allowed under § 91.01 through 91.05 or fowl, within the city nearer than 500 feet to any human habitation or platted land, without approval of the City Council. The City Council may, before approving or denying any request for approval, request a report from the Health Officer concerning the effect on public health.

(1993 Code, § 1210.02) Penalty, see § 10.99

§ 91.57 INTERFERENCE WITH CITY PERSONNEL.

No person may in any manner molest, hinder, or interfere with any person employed by the city to capture and impound dogs or other animals while the person is within the course and scope of employment.

(1993 Code, § 1210.03) Penalty, see § 10.99

CHAPTER 92: HEALTH AND SAFETY; NUISANCES

Section

General Provisions

- 92.01 Assessable current services
- 92.02 Tree diseases

Nuisances

- 92.15 Public nuisance
- 92.16 Public nuisances affecting health
- 92.17 Public nuisances affecting morals and decency
- 92.18 Public nuisances affecting peace and safety
- 92.19 Nuisance parking and storage
- 92.20 Inoperable motor vehicles
- 92.21 Building maintenance and appearance
- 92.22 Duties of city officers
- 92.23 Abatement
- 92.24 Recovery of cost

GENERAL PROVISIONS

§ 92.01 ASSESSABLE CURRENT SERVICES.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CURRENT SERVICE. One or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 through 463.26, as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

(B) *Snow, ice, dirt, and rubbish.*

(1) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) *Removal by city.* The City Manager or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt, and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Manager or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) *Public health and safety hazards.* When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Manager.

(D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under Title V, the City Manager shall keep a record of the total cost of the installation or repair against the property.

(E) *Repair of sidewalks and alleys.*

(1) *Duty of owner.* The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Manager.

(2) *Inspections; notice.* The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

(3) *Repair by city.* If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Manager shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. No person shall enter private property to repair a sidewalk, except with the permission of the owner or after obtaining an administrative warrant. The City Manager shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

(F) *Personal liability.* The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Manager, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Manager.

(G) *Damage to public property.* Any person driving any vehicle, equipment, object, or contrivance upon any street, road, highway, or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment, or object or contrivance; or as a result of operating, driving, or moving any vehicle, equipment, object, or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object, or contrivance, but is operating, driving, or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) *Assessment.* On or before October 31 of each year, the City Clerk shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

Penalty, see § 10.99

§ 92.02 TREE DISEASES.

(A) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi* (Buisman) Moreau or which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh.) or *Hylurgopinus Rufipes* (Marsh);

(2) Any dead elm tree or part thereof, including branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;

(4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including, but not limited to, logs, branches, stumps, roots, firewood, or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide; and

(5) Any other shade tree with an epidemic disease.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) above to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in §§ 92.22 and 92.23.

(C) *Record of costs.* The City Manager shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

(D) *Unpaid charges.* On or before September 1 of each year, the City Manager shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Penalty, see § 10.99

NUISANCES

§ 92.15 PUBLIC NUISANCE.

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public;

(B) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or §§ 92.16, 92.17, or 92.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Penalty, see § 10.99

§ 92.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

- (A) Exposed accumulation of decayed or unwholesome food or vegetable matter;
 - (B) All diseased animals running at large;
 - (C) All ponds or pools of stagnant water;
 - (D) Carcasses of animals not buried or destroyed within 24 hours after death;
 - (E) Accumulations of manure, refuse, or other debris;
 - (F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
 - (G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
 - (H) All noxious weeds and other rank growths of vegetation upon public or private property;
 - (I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
 - (J) All public exposure of people having a contagious disease; and
 - (K) Any offensive trade or business as defined by statute not operating under local license.
- Penalty, see § 10.99

§ 92.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

- (A) All gambling devices, slot machines, and punch boards, except as otherwise authorized by federal, state, or local law;
- (B) Betting, bookmaking, and all apparatus used in those occupations;
- (C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

(D) All places where intoxicating 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 liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Penalty, see § 10.99

§ 92.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules, chapter 7030, as it may be amended from time to time, which is hereby incorporated by reference into this code;

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle, 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;

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, 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. Operation of any device referred to above between the hours of 8:00 p.m. and 7:00 a.m. 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 violation of this section;

(G) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than

the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

(H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under conditions as are permitted by this code or other applicable law;

(I) Radio aerials or television antennae erected or maintained in a dangerous manner;

(J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic, and the free use of the street or sidewalk;

(K) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

(L) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(M) Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;

(N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

(O) Waste water cast upon or permitted to flow upon streets or other public properties;

(P) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material 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 accumulation;

(Q) Any well, hole, or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;

(S) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

(T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(U) All other conditions or things which are likely to cause injury to the person or property of anyone;

(V) (1) *Noises prohibited.*

(a) *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section.

(b) *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

(d) *Radios, phonographs, paging systems, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine, or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(e) *Schools, churches, hospitals, and the like.* No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of the institution.

(2) *Hourly restriction of certain operations.*

(a) *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 maintenance equipment except between the hours of 7:00 a.m. and 8:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 7:00 a.m. and 8:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 8:00 p.m. on any weekday or between the hours of 9:00 a.m. and 8:00 p.m. on any weekend or holiday.

(3) *Noise impact statements.* The City Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the City Council. It shall evaluate each statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

(W) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and 1 footcandle when abutting any commercial or industrial parcel; and

(X) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and 1 footcandle when abutting any commercial or industrial parcel.

Penalty, see § 10.99

§ 92.19 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it:

- (1) Obstructs views on streets and private property;
- (2) Creates cluttered and otherwise unsightly areas;
- (3) Prevents the full use of residential streets for residential parking;
- (4) Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited;
- (5) Decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and
- (6) Otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

(1) A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses, or other similar nonpermanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.

(2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

(3) A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements.

(a) No more than 4 vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(b) Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area.

(c) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property. Penalty, see § 10.99

§ 92.20 INOPERABLE MOTOR VEHICLES.

(A) It shall be unlawful to keep, park, store, or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. § 168B.011, Subd. 3, as it may be amended from time to time.

(B) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that the vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and

citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

Penalty, see § 10.99

§ 92.21 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* Buildings, fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they:

- (1) Are unsightly;
- (2) Decrease adjoining landowners and occupants' enjoyment of their property and neighborhood; and
- (3) Adversely affect property values and neighborhood patterns.

(B) *Standards.* A building, fence, or other structure is a public nuisance if it does not comply with the following requirements.

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped, or otherwise deteriorated surface finish on more than 20% of:

- (a) Any 1 wall or other flat surface; or
- (b) All door and window moldings, eaves, gutters, and similar projections on any 1 side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows, and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.
Penalty, see § 10.99

§ 92.22 DUTIES OF CITY OFFICERS.

For purposes of §§ 92.22 and 92.23, the Police Department, or Sheriff, or person designated by the City Council under § 10.20, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20.

§ 92.23 ABATEMENT.

(A) *Notice.* Written notice of violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.

(1) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17, as it may be amended from time to time.

(4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17, as it may be amended from time to time.

(B) *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) above, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see § 10.99

§ 92.24 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Manager or other official shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the office of the City Manager.

(B) *Assessment.* After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Manager shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

Penalty, see § 10.99

CHAPTER 93: PARKS AND RECREATION

Section

- 93.01 Definition
- 93.02 Rules governing use

§ 93.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PARKS. A park, bathing beach, or recreational area owned, leased, or used by this city and designated by the City Council as a park.
(1993 Code, § 700.01)

§ 93.02 RULES GOVERNING USE.

(A) *Application to all parks.* The rules set forth in the divisions which follow, in addition to all other applicable sections, will apply to all parks.

(B) *Vehicle speed.* No person shall operate a vehicle in any park at a speed in excess of 15 mph or in a reckless or careless manner, nor shall any person operate or leave standing a vehicle in any park except in areas designated for driving and parking.

(C) *Fires.* No person shall start a fire in any park except in places provided for those purposes, and charcoal is the only fuel permitted.

(D) *Waste and rubbish.* No person shall leave or throw waste materials, debris, or rubbish upon the grounds or water areas of any park.

(E) *Offensive conduct.* No person shall deface, damage, or remove any structure, tree, plant, soil, rock, or other property in any park without permission from the Manager. Conduct prohibited by this division (E) shall include, but not be limited to:

- (1) Affixing signs, posters, or advertisements to structures or property;

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- (2) Damaging flowers, trees, or plants;
- (3) Carrying off rocks or soil; and
- (4) Knocking down or destroying signs, benches, fences, or other property.

(F) *Animals and birds.* No person shall intentionally disturb, frighten, or kill any birds or animals kept or found in any park.

(G) *Swimming, bathing, or wading.* No person shall swim, bathe, or wade in any pond, lake, or watercourse except in areas designated for such purposes.

(H) *Trespassing.* No person shall trespass in any area of any park protected by signs or enclosures giving notice that use of the area is prohibited.

(I) *Practice of sports.* No person shall play or practice golf, football, baseball, archery, or any other game or sport involving danger to the participants or to others except in areas provided for the activity.

(J) *Unattended animals.* No dog or other animal shall be allowed to go unattended without physical restraint in any park.

(K) *Permits required.* No person shall be permitted to sell any article or service, give any performance or entertainment, or hold any dance, procession, or public assembly without a permit granted by the City Council in the same manner provided in division (N) below.

(L) *Restricted hours.* No person shall remain in or be present at any park, except at lighted tennis courts, between the hours of 10:00 p.m. and 5:00 a.m., unless written permission is obtained from the Manager.

(M) *Park facilities.* All persons shall obey orders or directions of the police or the park employees of this city concerning the manner in which park facilities may be used.

(N) *Liquor permits.* No person shall possess or consume any spirituous, vinous, malt, or fermented liquors, including 3.2% malt liquor, in any park at any time, without first having received a permit granted by the City Council, in accordance with the following procedures and conditions.

(1) Applications will be made in writing, at least 2 weeks prior to the date for which the permit is to be issued, by a person 21 years of age or older who is a resident of the city, or is employed by an employer located within the city.

(2) The application will be accompanied by an application fee and clean-up deposit in the amounts set forth in Chapter 33.

(3) In granting or denying the permit, the City Council will consider the type and size of the group for which the permit is requested, the extent to which the group involves city residents and their use of city park facilities, the anticipated effect upon other users of the park and adjacent residential properties, the likelihood of damage to park property and any other facts relevant to the health, safety, and general welfare of the residents of the city. The City Council reserves the right to deny any permit or to add conditions to any permit which it grants.

(4) The permit will authorize consumption by the applicant and bona fide members of the applicant's group, as referred to in the application, during specified hours on a specified date, of the beverages specified in the permit. The permit will not authorize the sale or giving of any alcoholic beverages to any person other than a bona fide member of the applicant's group; and the same shall be unlawful.

(5) The applicant will be responsible for the conduct of the group and for the clean-up of any cans, bottles, or debris left by the group. The clean-up deposit will be returned to the applicant only if the city is satisfied that all cans, bottles, and other debris from the activities were properly disposed of or removed.

(6) The use of the park facilities will be coordinated through the Community Services Department of independent School District No. 282.

(7) Any permit granted under this section will be subject to immediate suspension or revocation for any false statement on the application, for violation of this or any other code provision, or for other cause.

(O) *Glass.* No person shall possess or use any glass beverage container in any park at any time. (1993 Code, § 700.02) Penalty, see § 10.99

CHAPTER 94: STREETS AND SIDEWALKS

Section

Load Regulations and Restrictions

- 94.01 Restriction on loads

Obstructions in Public Ways

- 94.15 Obstructions prohibited
94.16 Removal of obstruction and expense

Sidewalks and Weed Control

- 94.30 Snow, ice, dirt, and rubbish removal
94.31 Repair of sidewalks
94.32 Weed control
94.33 Notice and compliance
94.34 Personal liability
94.35 Assessment

Trees and Shrubs on the Public Right-of-Way

- 94.50 Definition
94.51 Planting prohibited
94.52 Care and removal
94.53 Permit

LOAD REGULATIONS AND RESTRICTIONS

§ 94.01 RESTRICTION ON LOADS.

The Manager will by written order pursuant to M.S. § 169.87, as it may be amended from time to time, prohibit the operation of vehicles, or restrict the weight of vehicles, upon any city street which by reason of deterioration, rain, snow, or other climactic conditions will be seriously damaged or destroyed without those restrictions. The Manager will have the street affected by the order posted with notice in

the manner provided in M.S. § 169.87, as it may be amended from time to time. It is unlawful for any person to operate any vehicle or combination of vehicles on a city street or highway contrary to the prohibition or restriction set forth in the order and notice.

(1993 Code, § 800.00) Penalty, see § 10.99

OBSTRUCTIONS IN PUBLIC WAYS

§ 94.15 OBSTRUCTIONS PROHIBITED.

No person, except under a proper building permit issued by the Manager, shall obstruct or encumber any sidewalk, street, avenue, alley, lane, or other public way in the city with stone, brick, sand, lumber, or other material or property, except as permitted in this code.

(1993 Code, § 805.01) Penalty, see § 10.99

§ 94.16 REMOVAL OF OBSTRUCTION AND EXPENSE.

When an obstruction is placed or left on a street or other public way contrary to § 94.15, the city will notify the person who placed or left the obstruction and the owner of the abutting property to immediately remove the same. If the person fails or refuses to remove the obstruction within a reasonable time, it may be removed by the city. The person responsible for the obstruction shall reimburse the city for the cost of removal within 10 days after receiving an invoice from the city.

(1993 Code, § 805.02)

SIDEWALKS AND WEED CONTROL

§ 94.30 SNOW, ICE, DIRT, AND RUBBISH REMOVAL.

The owner and the occupant of property adjacent to a public sidewalk must use due diligence to keep the walk safe for pedestrians. No owner or occupant may allow snow, ice, dirt, or rubbish to remain on the walk longer than 12 hours after it has been deposited.

(1993 Code, § 810.01) Penalty, see § 10.99

§ 94.31 REPAIR OF SIDEWALKS.

The owner of any property within the city abutting a public sidewalk is required to promptly notify the city if the sidewalk is in need of repair and is not safe for pedestrians.

(1993 Code, § 810.02) Penalty, see § 10.99

§ 94.32 WEED CONTROL.

Any weeds or grasses, whether noxious as defined by law or not, growing outside the traveled portion of any city street or alley, or growing on private property, to a greater height than 6 inches or which have gone or are about to go to seed must be cut or removed by the owner of the abutting property if within the city right-of-way, and by the owner of the property upon which they are growing if they are outside the right-of-way.

(1993 Code, § 810.03) Penalty, see § 10.99

§ 94.33 NOTICE AND COMPLIANCE.

If conditions exist in violation of §§ 94.30, 94.31, or 94.32, the city may order the owner or occupant to have the conditions corrected by written notice to the occupant or to the owner at the address of the taxpayer for the property as shown by the city's records. The order will require the conditions to be corrected within 5 days after receipt of the notice, or in the case of sidewalk repairs within 30 days. The notice will state that in case of noncompliance, the work will be done by the city at the expense of the owner and that if unpaid, the charge for the work will be made a special assessment against the owner's property. If the owner or occupant fails to comply with the notice within the required period, the city's Public Works Director may have the conditions corrected. The Public Works Director will keep a record showing the cost of the work attributable to each separate lot and parcel and will deliver the information to the City Manager.

(1993 Code, § 810.04)

§ 94.34 PERSONAL LIABILITY.

The owner of property on which or adjacent to which a service referred to in § 94.33 has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Manager will prepare a bill and mail it to the owner. The amount billed is immediately due and payable at the office of the City Manager.

(1993 Code, § 810.05)

§ 94.35 ASSESSMENT.

On or before September 1 of each year, the City Manager is to list all unpaid charges referred to in § 94.34 against each separate lot or parcel to which they are attributable. The City Council may then spread the charges against property benefitted as a special assessment under M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

(1993 Code, § 810.06)

TREES AND SHRUBS ON THE PUBLIC RIGHT-OF-WAY**§ 94.50 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC RIGHT-OF-WAY. The area between the proposed or existing curb line and the property line of land abutting on any city street.
(1993 Code, § 815.01)

§ 94.51 PLANTING PROHIBITED.

No person may plant any tree or shrub on the public right-of-way without the permit referred to in § 94.53.
(1993 Code, § 815.02)

§ 94.52 CARE AND REMOVAL.

The owner of land abutting a public right-of-way is to perform all care and maintenance of trees and shrubs on the abutting public right-of-way. The Manager may order an abutting owner to trim or remove any tree or shrub that is diseased, dangerous, a public nuisance, or planted contrary to this subchapter. If the owner fails to comply with the order, the City Council may order the work done and assess the cost of the work against the abutting land in the same manner as other assessments for municipal improvements.
(1993 Code, § 815.03) Penalty, see § 10.99

§ 94.53 PERMIT.

The owner of property abutting on the public right-of-way may apply to the Public Works Director for a permit to replace a tree or shrub removed under § 94.52. The Public Works Director may grant the permit only upon finding that the proposed replacement tree or shrub does not interfere with traffic safety, proposed or existing sidewalks, or proposed or existing utility easements. Permits for replacement trees will permit only American Linden, Hackberry, Basswood, Ash, Hard Maple, Red Maple and Norway Maple varieties to be planted on the public right-of-way.
(1993 Code, § 815.04)

CHAPTER 95: CEMETERIES

Section

- 95.01 Consent of City Council
- 95.02 Permits for interment

§ 95.01 CONSENT OF CITY COUNCIL.

No new cemetery or place for burial of the dead may be established or set apart within the city, and no existing cemetery may be enlarged or extended, without the consent of the City Council.
(1993 Code, § 1100.01) Penalty, see § 10.99

§ 95.02 PERMITS FOR INTERMENT.

No permit may be issued for the interment of any dead body, except in a cemetery now existing or duly established with approval of the City Council.
(1993 Code, § 1100.02)

CHAPTER 96: RIGHT-OF-WAY MANAGEMENT

Section

- 96.01 Findings and purpose
- 96.02 Definitions
- 96.03 Administration
- 96.04 Registration, bonding, and right-of-way occupancy
- 96.05 Right to occupy rights-of-way; payment of fees
- 96.06 Franchise; franchise supremacy
- 96.07 Registration information
- 96.08 Reporting obligations
- 96.09 Permit requirement
- 96.10 Permit applications
- 96.11 Issuance of permit; conditions
- 96.12 Permit fees
- 96.13 Right-of-way restoration
- 96.14 Joint applications
- 96.15 Supplemental applications
- 96.16 Other obligations
- 96.17 Denial of permit
- 96.18 Installation requirements
- 96.19 Inspection
- 96.20 Work done without a permit
- 96.21 Supplemental notification
- 96.22 Revocation of permits
- 96.23 Appeals
- 96.24 Mapping data
- 96.25 Location of equipment
- 96.26 Relocation of equipment
- 96.27 Pre-excavation equipment location
- 96.28 Damage to other equipment
- 96.29 Right-of-way vacation
- 96.30 Indemnification and liability
- 96.31 Future uses
- 96.32 Abandoned and unusable equipment
- 96.33 Reservation of regulatory and police powers
- 96.34 Severability
- 96.35 Nonexclusive remedy

§ 96.01 FINDINGS AND PURPOSE.

By enactment of this chapter, the City Council hereby exercised its lawful police power and common law authority, and all statutory authority which is available to it, including, but not limited to, the powers conferred on it under M.S. §§ 237.162 and 237.163, as they may be amended from time to time, while preserving all power and authority to further require franchises from right-of-way users under M.S. §§ 216B.36, 222.37, 301B.01, and 412.11, as they may be amended from time to time, and other provisions of law.
(1993 Code, § 1165.01)

§ 96.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any person requesting permission to excavate or obstruct a right-of-way.

BUSINESS DISTRICT. Those portions of the city known as St. Anthony Shopping Center in the south end of the city and Silver Lake Village in the north end of the city.

CITY. The City of St. Anthony, Minnesota, its elected officials' officers, employees, agents, or any other commission, committee, or subdivision of the city acting pursuant to lawfully delegated authority.

CITY COST. The actual costs incurred by the city for managing rights-of-way, including, but not limited to, costs associated with registering of applicants; issuing, processing, and verifying right-of-way permit applications; revoking right-of-way permits; inspecting job sites; creating and updating mapping systems; determining the adequacy of right-of-way restoration; restoring work inadequately performed; maintaining, supporting, protecting, or moving user equipment during right-of-way work; budget analysis; record keeping; legal assistance; systems analysis; and performing all of the other tasks required by this chapter, including other costs the city may incur in managing the provisions of this character except as expressly prohibited by law.

CITY INSPECTOR. Any person authorized by the city to carry out inspections related to the provisions of this chapter.

DEGRADATION. The accelerated deprivation of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct the right-of-way earlier than would be required if the excavation did not occur.

DEGRADATION COST. Money paid to the city to cover the cost associated with a decrease in the useful life of a public right-of-way caused by excavation.

EMERGENCY. A condition that:

- (1) Poses a clear and immediate danger to life or health or of significant loss of property; or
- (2) Requires immediate repair or replacement in order to restore service to a customer.

EQUIPMENT OR FACILITIES. Any tangible thing located in any right-of-way, but shall not include boulevard plantings or gardens planted or maintained in the right-of-way between a person's property and the street curb.

EXCAVATE. To dig into or in any way remove or physically disturb or penetrate any part of right-of-way, except for horticultural practices of penetrating the boulevard area to a depth of less than 12 inches.

EXCAVATION PERMIT. The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An **EXCAVATION PERMIT** allows the holder to excavate that part of the right-of-way as described in the permit.

EXCAVATION PERMIT FEE. Money paid to the city by an applicant to cover the costs as provided in § 96.12.

IN. When used in conjunction with right-of-way, means over, above, in, within, on, or under a right-of-way.

LOCAL REPRESENTATIVE. The person or persons, or designee of the 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.

MAPPING DATA. Information indicating the horizontal and vertical location of equipment and facilities, relative to the boundaries of the right-of-way.

OBSTRUCT. To place any tangible object in the right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

OBSTRUCTION PERMIT. The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.

OBSTRUCTION PERMIT FEE. Money paid to the city by a registrant to cover the costs as provided in § 96.12.

PERFORMANCE AND RESTORATION BOND. A performance bond or letter of credit posted to ensure the availability of sufficient funds to assure that all obligations pursuant to this chapter, including, but not limited to, right-of-way excavation and obstruction work, is timely and properly completed as defined by the approved excavation and/or obstruction permit.

PERMIT HOLDER. Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

PERSON. Any natural or corporate person, business association, or other business entity, including, but not limited to, partnership, sole proprietorship, a political subdivision, a public or private agency of any kind, utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have equipment located in any right-of-way.

PROBATION. The status of any person that has not complied with the conditions of this chapter.

PROBATION PERIOD. One year from the date that a person has been notified in writing that they have been put on probation.

REGISTRANT. Any person who has or seeks to have his or her equipment located in any right-of-way, or in any way occupies or uses, or seeks to occupy or use, the right-of-way of any equipment located in the right-of-way, and, accordingly, is required to register with the city.

RESTORE or RESTORATION. The process by which an excavated or obstructed right-of-way and surrounding area, including, but not limited to, pavement and foundation, is returned to the same condition that existed before the commencement of excavation.

RESTORATION FEE. An amount of money paid to the city by a permit holder to cover the cost of restoration.

RIGHT-OF-WAY. The area on, below, or above any real property in which the city has an interest including, but not limited to, any street, road, highway, alley, sidewalk, parkway, trail, park, skyway, or any other place, area, or real property owned by or under control, of the city, including other dedicated rights-of-way for travel purposes and utility easements.

RIGHT-OF-WAY PERMIT. Either the excavation permit or obstruction permit, or both, depending on the context, required by this chapter.

SERVICE or UTILITY SERVICE. Includes, but is not limited to:

(1) Those services provided by a public utility as defined in M.S. § 216B.02. Subds. 4 and 6, as they may be amended from time to time;

(2) A telecommunications right-of-way user, pipeline, community antenna television, cable communications system as defined in M.S. Chapter 238, as it may be amended from time to time, fire and alarm communications, water, electricity, light, heat, cooling energy, or power services;

(3) The services provided by a corporation organized for the purposes set forth in M.S. § 301B.01, as it may be amended from time to time; and

(4) The services provided by a district heating or cooling system.

SUPPLEMENTARY APPLICATION. An application made to excavate or obstruct more of the right-of-way than allowed in, or extend, a permit that had already been issued.

TELECOMMUNICATIONS RIGHT-OF-WAY USER. A person owning or controlling a facility in the right-of-way, or seeking to own or control the same, 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 communications system defined and regulated under M.S. Chapter 238, as it may be amended from time to time, and telecommunications activities related to providing natural gas or electric energy services are not included in this definition for purposes of this chapter. This definition shall not be inconsistent with M.S. § 237.162, Subd. 4, as it may be amended from time to time.

UNUSABLE EQUIPMENT. Equipment located in the right-of-way which has remained unused for 1 year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next 12 months or a potential purchaser or user of the equipment.

USER FEE. The sum of money, payable to the city, by a person using or occupying the right-of-way; provided, however, that the city may at its option provide, at any time by ordinance or by amendment thereto, for a greater or different fee applicable to all the persons in an amount and by a method of determination as may be further provided in the ordinance or amendment thereto.
(1993 Code, § 1165.02)

§ 96.03 ADMINISTRATION.

The city may designate a principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The city may delegate any or all of the duties hereunder.
(1993 Code, § 1165.03)

§ 96.04 REGISTRATION, BONDING, AND RIGHT-OF-WAY OCCUPANCY.

(A) Each service that occupies, uses, or seeks to occupy or use, the right-of-way or any equipment located in the right-of-way, including by lease, sublease or assignment, or who has, or seeks to have, equipment located in any right-of-way, must register with the city. Registration will consist of providing application information and as required by the city, paying a registration fee, and posting a performance and restoration bond. The performance and restoration bond required in this section, and in §§ 96.10, 96.13, and 96.32, shall be in an amount determined at the city's sole discretion, sufficient to serve as

security for the full and complete performance of the obligations under this chapter, including any costs, expenses, damages, or loss the city pays or incurs because of any failure to comply with this chapter or any other applicable laws, regulations or standards. During periods of construction, repair, or restoration of rights-of-way or equipment in rights-of-way, the performance and restoration bond shall be in an amount sufficient to cover 100% of the estimated cost of the work, as documented by the person proposing to perform the work, or in the lesser amount as may be determined by the city, taking into account the amount of equipment, in the right-of-way, the location and method of installation of the equipment, the conflict or interference of the equipment with the equipment of other persons, and the purposes and policies of this section. Sixty days after completion of the work, the performance and restoration bond may be reduced by the sole determination of the city.

(B) No person may construct, install, repair, remove, relocate, or perform any other work, except as permitted in division (C) below, on or use any equipment or any part thereof located in any right-of-way without first being registered with the city.

(C) Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens or in the area of right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining the boulevard plantings or gardens under this chapter. However, excavations deeper than 12 inches are subject to the permit requirements of § 96.09.

(1993 Code, § 1165.04)

§ 96.05 RIGHT TO OCCUPY RIGHTS-OF-WAY; PAYMENT OF FEES.

(A) Any person required to register under § 96.04, which occupies, uses, or places its equipment in the right-of-way, is hereby granted a right to do so if and only so long as it timely pays all fees as provided herein and complies with all other requirements of law.

(B) The grant of right in division (A) above is expressly conditioned on, and is subject to, the police powers of the city, continuing compliance with all provisions of law now or hereafter enacted, including this chapter as it may be from time to time amended and, authorizations, whether from the city or other body or authority.

(1993 Code, § 1165.05)

§ 96.06 FRANCHISE; FRANCHISE SUPREMACY.

The city may, in addition to the requirements of this chapter, require any person which has or seeks to have equipment located in any right-of-way to obtain a franchise to the full extent permitted by law, now or hereafter enacted. The terms of any franchise which are in direct conflict with any provision of this chapter, whether granted prior or subsequent to enactment to this chapter, shall control and

supersede the conflicting terms of this chapter, provided, however, that requirements relating to insurance, bonds, penalties, security funds, letters of credit, indemnification, or any other security in favor of the city may be cumulative in grantee. All other terms of this chapter shall be fully applicable to all persons whether franchised or not.

(1993 Code, § 1165.06)

§ 96.07 REGISTRATION INFORMATION.

(A) *Generally.* The information provided to the city at the time of registration shall include, but not to be limited to:

(1) The 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 or self-insurance:

(a) Shall be on a form approved by the city;

(b) Shall verify that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota; or is covered by self-insurance which the city determines to provide the city with protection equivalent to that of a Minnesota-licensed insurance company, legally independent from registrant;

(c) Shall verify that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and placement and use of 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 equipment and collapse of property;

(d) Shall name the city as an additional insured as to whom the coverage required herein are in force and applicable and from whom defense will be provided as to all the coverage;

(e) Shall require that the city be notified 30 days in advance of cancellation of the policy;
and

(f) Shall indicate comprehensive liability coverage, automobile liability coverage, workers compensation, and umbrella coverage in amounts established by the city of the office of risk and employee benefit management in amounts sufficient to protect the city and carry out the purposes and policies of this chapter.

(4) A copy of the registrant's certificate of authority from the Minnesota Public Utilities Commission, where the registrant is lawfully required to have the certificate from the Commission; and

(5) Any other information as the city may require.

(B) *Notice of changes.* The registrant shall keep all of the information listed above current at all times by providing to the city information of changes within 15 days following the date on which the registrant has knowledge of any change.

(C) *Grant of right; payment of user fee.*

(1) Any person required to register under this section, which furnishes utility services or which occupies, uses, or places its equipment in the right-of-way, is hereby granted a right to do so if and only so long as it pays the user fees as provided herein in a timely manner and complies with all other requirements of law. This legal entitlement shall not include use of the right-of-way for purposes not in furtherance of furnishing utility services for which additional authorization is required by this chapter or other state or federal law, unless the person pays the user fee for the non-utility service use.

(2) The fee shall be paid to the city in substantially equal quarterly installments, subject to adjustment and correction at the conclusion of the calendar year. This fee shall be paid for all and any part of a calendar year, prorated on a daily basis, during any time period in which the permit holder uses or occupies the right-of-way to furnish utility service, or places, maintains or uses its wires, mains, pipes, or any other facilities or equipment in the right-of-way.

(3) The granting of the right is expressly conditioned on, and is subject to, continuing compliance with all provisions of law, including this section.

(D) *Franchise agreements; franchise payments.* This section does not apply to a person or business which uses and occupies the right-of-way for operating its business when there is a preexisting franchise agreement between that person or business and the city and franchise payments are made as agreed.

(1993 Code, § 1165.07)

§ 96.08 REPORTING OBLIGATIONS.

(A) *Operations.*

(1) Each registrant shall at the time of registration and by December 1 of each year, file a construction and major maintenance plan with the city. Registrants must use commercially reasonable efforts to anticipate and plan for all upcoming projects and include all the projects in a construction or

major maintenance plan. The plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

(2) The plan shall include, but not be limited to, the following information:

(a) The specific locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this chapter, a “next-year project”); and

(b) The tentative locations and beginning and ending dates for all projects contemplated for the 5 years following the next calendar year (in this chapter, a “5-year project”).

(3) The term “project” in this section shall include both next-year projects and 5-year projects.

(4) By January 1 of each year, the city will have available for inspection in its offices a composite list of all projects of which it has been informed in the annual plans. All registrants are responsible for keeping themselves apprised of the current status of this list.

(5) Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all the changes in the list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant that was listed by the other registrant.

(B) *Additional next-year projects.* Notwithstanding the foregoing, the city may, for good cause shown, allow a registrant to submit additional next-year projects. Good cause included, but is not limited to, the criteria set forth in § 96.17 concerning the discretionary issuance of permits.

(1993 Code, § 1165.08)

§ 96.09 PERMIT REQUIREMENT.

(A) *Generally.* 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.

(B) *Excavation permit.* An excavation permit is required to allow the holder to excavate that part of the right-of-way described in the permit and/or to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein, to the extent and for the duration specified therein.

(C) *Obstruction permit.* An obstruction permit is required to allow the holder to hinder free and open passage over the specified portion of right-of-way by placing equipment, vehicles, or other obstructions described therein on the right-of-way for the duration specified therein.

(D) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit extension is granted.

(E) *Disruptive fee.* Notwithstanding division (D) above, even if a new permit or permit extension is granted, the city shall establish and impose a disruptive fee as a civil penalty for unreasonable delays in right-of-way excavation, obstruction, repair, or restoration.

(F) *Permit display.* Permits issued under this chapter shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by the City Inspector and authorized city personnel.

(1993 Code, § 1165.09) Penalty, see § 10.99

§ 96.10 PERMIT APPLICATIONS.

(A) Application for a permit is made to the city.

(B) Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

(1) Registration with the city pursuant to this chapter;

(2) Submission of 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 existing and proposed equipment; and

(3) Payment of all money due to the city for:

(a) Permit fees and costs due;

(b) Prior obstructions or excavations;

(c) Any loss, damage, or expense suffered by the city as a result of applicant's prior excavations or obstructions of the rights-of-way or any emergency action taken by the city; and

(d) Franchise fees, if applicable.

(C) When an excavation permit is requested for purposes of installing additional equipment, and a performance and restoration bond which is in existence is insufficient with respect to the additional equipment in the sole determination of the city, the permit applicant may be required by the city to post an additional performance and restoration bond in accordance with § 96.04.

(1993 Code, § 1165.10)

§ 96.11 ISSUANCE OF PERMIT; CONDITIONS.

(A) If the city determines that the applicant has satisfied the requirements of this chapter, the city may issue a permit.

(B) The city may impose any reasonable conditions upon the insurance of a permit and the performance of the applicant thereunder in order to protect the public health, safety, and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, to minimize the disruption and inconvenience to the traveling public, and to otherwise efficiently manage use of the right-of-way.

(1993 Code, § 1165.11)

§ 96.12 PERMIT FEES.

(A) *Excavation permit fee.* The excavation permit fee shall be established by the city in an amount sufficient to recover the following costs:

- (1) The city cost;
- (2) The degradation of the right-of-way that will result from the excavation; and
- (3) Restoration, if done or caused to be done by the city.

(B) *Disruption fees.* The city may establish and impose a disruption fee as a penalty for unreasonable delays in excavations, obstructions, or restoration.

(C) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of all fees required prior to the issuance of the permit unless the applicant shall agree (in manner, amount, and substance acceptable to the city) to pay the fees within 30 days of billing therefor. All permit fees shall be doubled during a probationary period. Permit fees that were paid for a permit which was revoked for a breach are not refundable. Any refunded permit fees shall be less all city cost up to and including the date of refund.

(D) *Use of permit fees.* All obstruction and excavation permit fees shall be used solely for city management, construction, maintenance, and restoration costs of the right-of-way.

(1993 Code, § 1165.12)

§ 96.13 RIGHT-OF-WAY RESTORATION.

(A) *Timing.* The work to be done under the excavation permit, and the repair 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 extraordinary circumstances beyond the control

of the permit holder or when work was prohibited as unseasonable or unreasonable under § 96.16. In addition to repairing its own work, the permit holder must restore the general work area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of work and use reasonable care to maintain the same condition for 36 months thereafter.

(B) *Repair and restoration.* The permit holder shall repair its own work. In addition, in its application for an excavation permit, the permit holder may choose either to have the city restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the permit holder chooses to have the city restore the right-of-way, the permit holder shall pay the costs thereof within 30 days of billing. If, during the 36 months following the restoration, the pavement settles due to the permit holder's improper backfilling, the permit holder shall pay to the city, within 30 days of billing, the cost for the resultant degradation as well as for any and all additional city costs associated therewith.

(2) *Permit holder restoration.* If the permit holder chooses at the time of application for an excavation permit to restore the right-of-way itself, the permit holder shall post an additional performance and restoration bond in an amount determined by the city to be sufficient to cover the cost of restoring the right-of-way to its pre-excavation condition. If, 36 months after completion of the restoration of the right-of-way, the city determines that the right-of-way has been properly restored, the surety on the performance and restoration bond posted pursuant to this division (B)(2) shall be released.

(C) *Standards.* The permit holder shall perform the work according to the standards and with the materials specified by the city. The city shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The city, in exercising this authority, shall be guided but not limited by the following standards and considerations:

(1) The number, size, depth, and duration of the excavations, disruptions, or damage to the right-of-way;

(2) The traffic volume catted by the right-of-way; the character of the neighborhood surrounding the right-of-way;

(3) The pre-excavation condition of the right-of-way; remaining life expectancy of the right-of-way affected by the excavation;

(4) Whether the relative cost of the method of restoration to the permit holder is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and

(5) The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

(D) *Guarantees.* By choosing to restore the right-of-way itself, the permit holder guarantees its work and shall maintain it for 36 months following the completion. During this 36-month period, it shall, upon notification from the city, correct all restoration work to the extent necessary, using the method required by the city. The work shall be completed within 5 calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of extraordinary circumstances or days when work is prohibited as unseasonable or unreasonable under § 96.16.

(E) *Failure to restore.* If the permit holder 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 repairs required by the city, the city at its option may perform or cause to be performed the work. In that event, the permit holder shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permit holder fails to pay as required, the city may exercise its rights under the performance and restoration bond.

(F) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a permit holder shall pay to the city a degradation fee to cover city costs associated with a decrease in the useful life of a public right-of-way caused by excavation and repairs. Payment of a degradation fee does not relieve the permit holder of the obligation to make necessary right-of-way repairs.
(1993 Code, § 1165.13)

§ 96.14 JOINT APPLICATIONS.

(A) *Joint application.* Registrants may jointly make application for permits to excavate or obstruct the right-of-way at the same place and time.

(B) *With city projects.* Registrants who join in and during a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by 2 or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee.

(C) *Shared fees.* Registrants who apply for permits for the same obstruction or excavation, which is not performed by the city, may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay indicate the same on their applications.
(1993 Code, § 1165.14)

§ 96.15 SUPPLEMENTAL 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 permit holder may perform any work outside the area specified in the permit, except as provided herein. Any permit holder which determines that an area greater than that

specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees necessitated thereby, and be granted a new permit or permit extension.

(B) *Limitations on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permit holder may begin its work before the permit start date or, except as provided therein, continue working after the end date. If permit holder does not finish the work by the permit end date, it must make application for a new permit for 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 done before the permit end date.
(1993 Code, § 1165.15)

§ 96.16 OTHER OBLIGATIONS.

(A) *Compliance with other laws.* Obtaining a right-of-way permit does not relieve permit holder of its duty to obtain all other necessary permits, licenses, franchises, or other authorizations and to pay all fees required by the city, any other city, county, state, or federal rules, laws, or regulations. A permit holder shall comply with all requirements of local, state, and federal laws, including M.S. §§ 216D.01 through 216D.09, as they may be amended from time to time, (“One Call Excavation Notice System”). A permit holder shall preform 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 performed the work.

(B) *Prohibited work.* Except in the case of an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for the work.

(C) *Interference with right-of-way.* A permit holder 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 may not be parked with adjacent to a permit area. The loading or unloading of trucks adjacent to a permit area is prohibited unless specifically authorized by the permit.
(1993 Code, § 1165.16)

§ 96.17 DENIAL OF PERMIT.

(A) *Mandatory denial.* Except in the case of an emergency, no right-of-way permit will be granted:

- (1) To any person required by § 96.04 to be registered who has not done so;
- (2) To any person required by § 96.08 to file an annual report but has failed to do so;

(3) For any next-year project not listed in the construction and major maintenance plan required under § 96.08 unless the person used commercially reasonable efforts to anticipate and plan for the project;

(4) For any project which requires the excavation of any portion of a right-of-way which was constructed or reconstructed within the preceding 5 years;

(5) To any person who has failed within the past 3 years to comply, or is presently not in full compliance, with the requirements of the section;

(6) To any person as whom there exists grounds for the revocation of a permit under § 96.22; and

(7) If, in the sole discretion of the city, the issuance of a permit for the particular date and/or time would cause a conflict to interfere with an exhibition, celebration, festival, or any other event. The city, in exercising this discretion, shall be guided by the safety and convenience of ordinary travel of the public over the right-of-way, and by considerations relating to the public health, safety, and welfare.

(B) *Permissive denial.* The city may deny a permit in order to protect the public health, safety, and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The city may consider 1 or more of the following factors:

(1) The extent to which right-of-way space where the permit is sought is available;

(2) The competing demands for the particular space in the right-of-way;

(3) The availability of other locations in the right-of-way or in other rights-of-way equipment of the permit applicants;

(4) The applicability of ordinance or other regulations of the right-of-way that affect location of equipment in the right-of-way;

(5) The degree of compliance of the applicant with the terms and conditions of its franchise, if any, this chapter, and other applicable ordinances and regulations;

(6) The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

(7) The condition and age of the right-of-way, and whether and when it is scheduled for a total or partial reconstruction; and

(8) The balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the expansion into additional parts of the right-of-way.

(C) *Discretionary issuance.* Notwithstanding the provisions of divisions (A)(3) and (A)(4) above, the city may issue a permit in any case where the permit is necessary to prevent substantial economic hardship to a customer of the permit applicant, or to allow the customer to materially improve its utility service, or to allow a new economic development project; and where the permit applicant did not have knowledge of the hardship, the plans for improvement of service, or the development project when the applicant was required to submit its lists of next-year projects.

(D) *Permits for additional next-year projects.* Notwithstanding the provisions of division (A)(3) above, the city may issue a permit to a registrant who was allowed under § 96.08 to submit an additional next-year project, or in the event the registrant demonstrates that it is used commercially reasonable efforts to anticipate and plan for the project, the permit to be subject to all other conditions and requirements of law, including the conditions as may be imposed under § 96.11.
(1993 Code, § 1165.17)

§ 96.18 INSTALLATION REQUIREMENTS.

In accordance with M.S. §§ 237.162, Subd. 8(3) and 237.163, Subd 8, as they may be amended from time to time; and other provisions of law, and until the Public Utilities Commission adopts uniform statewide standards, the excavation, restoration, and all other work performed in the right-of-way shall be done in conformance with the *Standard Specifications for Street Openings* as promulgated by the city and at a location as may be required by § 96.25. The city may enforce local standards prior to adoption of mandatory, preemptive statewide standards pursuant to its inherent and historical police power authority.
(1993 Code, § 1165.18)

§ 96.19 INSPECTION.

(A) *Notice of completion of work.* When the work under any permit hereunder is completed, the permit holder shall notify the city.

(B) *Site inspection.* The permit holder shall make the work-site available to the City Inspector and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the work.

(C) *Authority of City Inspector.* At the time of inspection the City Inspector may order the immediate cessation of any work which poses a serious threat to life, health, safety, or well-being of the public. The City Inspector may issue an order to the registrant for any work which does not conform to the applicable standards, conditions, or codes. The order shall state that failure to correct the

violation will be cause for revocation of the permit. Within 10 days after issuance of the order, the registrant shall present proof to the city that the violation has been corrected. If the proof has not been presented within the required time, the city may revoke the permit pursuant to § 96.22.

(1993 Code, § 1165.19)

§ 96.20 WORK DONE WITHOUT A PERMIT.

(A) Emergency situations.

(1) Each registrant shall immediately notify the city of the city's designee of any event regarding its equipment which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary in order to respond to the emergency. Within 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.

(2) In the event that the city becomes aware of an emergency regarding a registrant's equipment, the city may 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 in order to respond to the emergency, the cost of which shall borne by the registrant whose equipment occasioned the emergency.

(B) Non-emergency situations. Except in the case of an emergency, any person who, without first having obtained the necessary permit, obstructs or evacuates a right-of-way must subsequently obtain a permit, pay double the normal fee for the permit, pay double all the other fees required by city ordinance, necessary to correct any damage to the right-of-way and comply with all the requirements of this chapter. (1993 Code, § 1165.20)

§ 96.21 SUPPLEMENTAL NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or sooner than the date given on the permit, the permit holder shall notify the city of the accurate information as soon as this information is known.

(1993 Code, § 1165.21)

§ 96.22 REVOCATION OF PERMITS.

(A) Substantial breach. Registrants hold permits issued pursuant to this code as a privilege and not as a right. The city reserves the right, as provided herein and in accordance with M.S. § 237.163, Subd.4, as it may be amended from time to time, to revoke any right-of-way permit, without fee refund,

in the event of a substantial breach of the term and conditioned of any statute, ordinance, rule, or regulation, or any condition of the permit. A substantial breach by permit holder shall include, but 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 maintain the required bonds and/or insurance;
- (5) The failure to complete the work in a timely manner; or
- (6) The failure to correct a condition indicated on an order issued pursuant to § 96.19.

(B) *Written notice of breach.* If the city determines that the permit holder 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 permit holder to remedy the violation. The demand shall state that continued violations may be cause for revocation of the permit. Further, a substantial breach, as stated above, will allow the city, at the city's discretion, to place additional or revised conditions on the permit.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, permit holder shall contact the city with a plan, acceptable to the City Inspector, for its correction. The permit holder's failure to so contact the City Inspector, the permit holder's failure to submit an acceptable plan, or the permit holder's failure to reasonably implement the approved plan shall be cause for immediate revocation of the permit. Further, permit holder's failure to so contact the City Inspector, or the permit holder's failure to reasonably implement the approved plan shall automatically place the permit holder on probation for 1 full year.

(D) *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 permit holder on probation for 1 full year, such as, but not limited to, working out of the allotted time period or working on right-of-way outside of the permit.

(E) *Automatic revocation.* If a permit holder, while on probation, commits a breach as outlined above, permit holder's permit will automatically be revoked and permit holder will not be allowed further permits for 1 full year, except for emergency's repairs.

(F) *Reimbursement of city costs.* If a permit is revoked, the permit holder shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorney's fees incurred in connection with the revocation.

(1993 Code, § 1165.22)

§ 96.23 APPEALS.

(A) *Appeal process.* If an applicant has been denied registration of a right-of-way permit, its right-of-way permit revoked, or believes that the fees imposed on the user by the city do not conform to the requirements of law, the applicant may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee imposition must be in writing and supported by written findings establishing the reasonableness of the decision.

(B) *Appeal costs.* Each party to the arbitrators shall pay its own costs, disbursements, and attorney fees.

(1993 Code, § 1165.23)

§ 96.24 MAPPING DATA.

(A) *Information required.* Except as provided in division (B) below, each registrant shall provided to the city information indicating the horizontal and vertical location, relative to the boundaries of the right-of-way, of all equipment which it owns or over which it has control and which is located in any right-of-way ("Mapping Data"). Mapping data shall be provided with the specificity and in the format requested by the city for inclusion in the mapping system used by the city. Notwithstanding the foregoing, mapping data shall be submitted by all registrants for all equipment which is to be installed or constructed after the date of passage of this chapter at the time any permits are sought under this chapter.

(B) *Supplemental information.* Within 6 months of the acquisition, installation, of construction of additional equipment or any relocation, abandonment, or disuse of excavating equipment, each registrant shall supplement the mapping data required herein.

(C) *Comprehensive equipment plans.*

(1) Each registrant shall, within 6 months after the date of passage of this chapter, submit a plan to the city specifying in detail the steps it will take economically with the requirements of this chapter. This plan shall provide for the submission of all mapping data for commercial and industrial zoning districts within 2 years after the date of passage of this chapter, and for the remainder of the city as early as may be reasonable and practical, but not later than 5 years after the date of passage of this ordinance for the remainder of the city as early as may be reasonable and practical, but not later than 5 years after the date of passage of this chapter.

(2) After 6 months after the passage of this chapter, a new registrant, or a registrant which has not submitted a plan as required above, shall submit complete and accurate mapping data for all its equipment at the time any permits are sought under this chapter.

(D) *Telecommunications equipment.* Information on existing facilities and equipment of telecommunications right-of-way users need only be supplied in the form maintained by the telecommunications right-of-way user.

(E) *Trade secret information.* At the request of any registrant, any information requested by the city, which qualifies as a “trade secret” under M.S. § 13.37(b), as it may be amended from time to time, shall be treated as trade secret information as detailed therein. With respect to the provision of mapping data, the city may consider unique circumstances from time to time required to obtain mapping data. (1993 Code, § 1165.24)

§ 96.25 LOCATION OF EQUIPMENT.

(A) *Undergrounding.* Unless otherwise permitted by an existing franchise or M.S. § 216B.34, as it may be amended from time to time, or unless existing above-ground equipment is repaired or replaced, or unless infeasible such as in the provision of electric service at certain voltages, new construction, installation of new equipment, and the replacement of old equipment shall be done underground or contained within buildings or other structures in conformity with applicable codes unless otherwise agreed to by the city in writing, and the agreement is reflected in applicable permits.

(B) *Corridors.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. Excavation, obstruction, or other permits issued by the city for work involving the installation or replacement of equipment may designate the proper corridor for the equipment at issue and the equipment must be located accordingly.

(C) *Moving of existing equipment to corridors.* Any registrant whose equipment is located, prior to enactment of this chapter, in the right-of-way in a position at variance with corridors established by the city shall, no later than at a time of the next reconstruction or excavation of the area where its equipment is located, move that equipment to its assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of factors such as the remaining economic life of the facilities, public safety, customer service needs, and hardship to the registrant.

(D) *Nuisance.* One year after the passage of this chapter, any equipment found in a right-of-way that has 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 equipment and restoring the right-of-way to a usable condition.

(E) *Limitation of space.* To protect health, safety, and welfare, the city shall have the power to prohibit or limit the placement of new additional equipment within the right-of-way if there is insufficient space to accommodate all of the requests of registrant or persons to occupy and use the right-of-way. In making the 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 public interest, the public's needs for the particular service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment in the right-of-way, and future city plans for public improvements and development projects which have been determined to be the public interest. (1993 Code, § 1165.25)

§ 96.26 RELOCATION OF EQUIPMENT.

(A) A registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its equipment and facilities in the right-of-way whenever the city requests the removal and relocation, and shall restore the right-of-way to the same condition it was in prior to the removal or relocation. The city may make the requests in order to prevent inference by the company's equipment or facilities with a present or future city use of the right-of-way; a public improvement undertaken by the city; an economic development project in which the city has an interest or investment; when the public health, safety and welfare requires it; or when necessary to prevent interference with the safety and convenience or ordinary travel over the right-of-way.

(B) Notwithstanding the forgoing, a person shall not be required to remove or relocate its equipment from any right-of-way which has been vacated in favor of nongovernmental entity to the person therefor. (1993 Code, § 1165.26)

§ 96.27 PRE-EXCAVATION EQUIPMENT LOCATION.

In addition to complying with the requirements of M.S. § 216D.01-09, as it may be amended from time to time, before the start date of any right-of-way excavation, each registrant who has equipment located in the area to be excavated shall mark the horizontal and approximate vertical placement of all the equipment. Any registrant whose equipment is less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor in an effort to establish the exact location of its equipment and the best procedure for excavation. (1993 Code, § 1165.27)

§ 96.28 DAMAGE TO OTHER EQUIPMENT.

(A) *Maintenance work by city.* When the city performs work in the right-of-way and finds it necessary to maintain, support, or move a registrant's equipment in order to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing.

(B) *Responsibility of registrant.* Each registrant shall be responsible for the cost of repairing any equipment in the right-of-way which it or its equipment damages. Each registrant shall be responsible for the cost of repairing any damage to the equipment of another registrant cause during the city's response to an emergency occasioned by that registrant's equipment.
(1993 Code, § 1165.28)

§ 96.29 RIGHT-OF-WAY VACATION.

(A) *Reservation of right.* If the city vacates a right-of-way which contains the equipment of a registrant, and if the vacation does not require the relocation of registrant or permit holder equipment, the city shall reserve, to and for itself and all registrant having equipment in the vacated right-of-way, the right to install, maintain, and operate any equipment in the vacated right-of-way and to enter upon the right-of-way at any time for the purpose of reconstructing, inspecting, maintaining, or repairing the same.

(B) *Relocation of equipment.* If the vacation requires the relocation of the registrant or permit holder equipment and; if the vacation proceedings are initiated by the registrant or permit holder, the registrant or permit holder must pay the relocation costs; or if the vacation proceedings are initiated by the city and the registrant or permit holder must pay the relocation costs unless otherwise agreed to by the city and the registrant to permit holder; or if the vacation proceeding are initiated by a person or persons other than the registrant or permit holder, the person or persons must pay the relocation costs.
(1993 Code, § 1165.29)

§ 96.30 INDEMNIFICATION AND LIABILITY.

(A) *Limitation of liability.* By reason of the acceptance of a registration or a grant of the right-of-way permit, the city does not assume any liability; for injuries to persons, damage to property, or loss of service claims by parties other than the registrant or the city; or for claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of equipment by registrants or activities of registrants.

(B) *Indemnification.* By registering with the city, a registrant agrees, or by accepting a permit under this chapter, a permit holder is required to defend, indemnify, and hold the city whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair, or operation of its equipment, or out of any activity undertaken in or near a right-of-way, whether or not any act or omission complained of is authorized, allowed, or prohibited by a right-of-way permit. It further agrees that it will not bring, nor cause to be brought, any action, suit, or other proceeding claiming damages, or seeking any other relief against the city for any claim nor for any award arising out of the presence, installation, maintenance, or operation of its equipment, or any activity undertaken in or near a right-of-way, whether or not the act or omission

complained of is authorized, allowed, or prohibited by right-of-way permit. The foregoing does not indemnify the city for its own negligence except for the claims arising out of or alleging the city's negligence where the negligence arises out of or is primarily related to the presence, installation, construction, operation, maintenance, or repair of the equipment by the registrant or on the registrant's behalf, including, but not limited to, the insurance of permits and inspection of plans or work. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant or to the city; and the registrant, in defending any action on behalf of the city, shall be entitled to assert in any action every defense or immunity that the city could assert in its own behalf. (1993 Code, § 1165.30)

§ 96.31 FUTURE USES.

In placing any equipment, or allowing it to be placed, in the right-of-way, the city is not liable for any damages caused thereby to any registrant's equipment which is already in place. No registrant is entitled to rely on the provisions of this section, and no special duty is created as to registrant. This section is enacted to protect the general health, welfare, and safety of the public at large. (1993 Code, § 1165.31)

§ 96.32 ABANDONED AND UNUSABLE EQUIPMENT.

(A) *Discontinued operations.* A registrant who has determined to discontinue its operations with respect to any equipment in any right-of-way, or segment or portion thereof, in the city must either:

(1) Provide information satisfactory to the city that the registrant's obligations for its equipment in the right-of-way under this chapter have been lawfully assumed by either registrant; or

(2) Submit to the city a proposal and instruments for transferring ownership of its equipment to the city. If a registrant proceeds under this clause, the city may, at its option:

(a) Purchase the equipment;

(b) Require the registrant, at its own expense, to remove it; or

(c) Require the registrant to post an additional bond or an increased bond amount sufficient to reimburse to city for reasonably anticipated costs to be incurred in removing the equipment.

(B) *Abandoned equipment.* A registrant's equipment that fails to comply with division (C) below and which has remained unused for 2 years shall be deemed to be abandoned. Abandoned equipment is 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:

(1) Abating the nuisance;

- (2) Taking possession of the equipment and restoring it to a usable condition;
- (3) Requiring removal of the equipment by the registrant or by the registrant's surety; or
- (4) Exercising its rights pursuant to the performance and restoration bond.

(C) *Removal.* Any registrant who has unusable equipment in any right-of-way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is waived by the city.

(1993 Code, § 1165.32)

§ 96.33 RESERVATION OF REGULATORY AND POLICE POWERS.

The city, by granting of a right-of way permit, or by registering a person under this section, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the city under the Constitution and Statutes of the State of Minnesota to regulate the use of the right-of-way by permit holder; and the permit holder by its acceptance of a right-of-way permit or of registration under those ordinances agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A permit holder or registrant is deemed to acknowledged that its rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and ordinances enacted by the city pursuant to the powers. Any conflict between the provisions of a registration or of a right-of-way permit and any other present or future lawful exercise of the city's regulatory or police powers shall be resolved in favor of the latter.

(1993 Code, § 1165.33)

§ 96.34 SEVERABILITY.

If any division, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of the remaining portions thereof. If regulatory body or a court of competent jurisdiction should determine by a final, nonappealable order that any permit, right, or registration issued under this chapter or any portion of this chapter is illegal or unenforceable, then any such permit right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with mutual right in either party to terminate without cause giving 60 days written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for the conditions relating to the term of the permit and

the right of termination. If a permit, right or registration shall be considered a revocable permit as provided herein, the permit holder must acknowledge the authority of the City Council to issue the revocable permit and the power to revoke it. Nothing in this chapter precludes the city from requirements set forth herein.

(1993 Code, § 1165.34)

§ 96.35 NONEXCLUSIVE REMEDY.

The remedies provided in this chapter and other chapters in the Legislative Code are not exclusive or in lieu of other right and remedied that the city may have at law or in equity. The city is hereby authorized to seek legal and equitable relief for actual or threatened injury to the public rights-of-way, including damages to the rights-of-way, whether or not caused by a violation of any of the provisions of this chapter or other provisions of the Legislative Code.

(1993 Code, § 1165.35)

CHAPTER 97: FIRE PREVENTION AND PROTECTION

Section

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GENERAL PROVISIONS**§ 97.01 DEFINITIONS.**

For the purpose of this subchapter and the Fire Prevention Code hereby established, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUREAU. The St. Anthony Bureau of Fire Prevention.

CHIEF OF THE BUREAU OF FIRE PREVENTION. The St. Anthony Fire Marshal.

CODE. The Fire Prevention Code of the City of St. Anthony, which includes the MSFC and any amendments and modifications contained in this subchapter.

CORPORATE COUNSEL. The City Attorney.

FIRE CHIEF. The Chief of the Fire Department of the City of St. Anthony.

MSFC. The Minnesota State Fire Code as, adopted pursuant to M.S. § 299F.011, and as modified by Minn. Rules, Chapter 7511, and as modified by the City of St. Anthony. (1993 Code, § 1325.01) (Ord. 08-001, passed 4-8-2008)

§ 97.02 FIRE PREVENTION CODE.

(A) *Adoption.* The MSFC, except as hereinafter modified or changed, is adopted as the city's Fire Prevention Code and shall be applicable within the City of St. Anthony.

(1) MSFC 105.6.30 **C** The exception for recreational fires is deleted.

(2) MSFC 111.4 **C** Failure to Comply: Any person who fails to obtain a permit as required in Section 105 or Section 106 of the MSFC, or any person who fails to obtain a permit as required by the Building Code or any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fee as set forth by the fee structure adopted by the city and contained in Chapter 33 of this code.

(3) MSFC 111.4.1 **C** Work Commencing before Permit Issuance. If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee established by municipality shall be collected and is in addition to the required permit fees, but it may not exceed the permit fee.

(4) MSFC Section 202 **C CAMPFIRE** shall have the meaning of a **RECREATIONAL FIRE** as defined in MSFC 302.1.

(5) MSFC Section 505 C Section 505.1 is amended as follows:

505.1 Address Numbers

505.1.1 Each owner of one or two family dwelling in the city must post the correct street or avenue number of the building in a conspicuous place both on the front and rear of the building in accordance with this section.

(a) House numbers must be in Arabic numerals, and of color contrasting to the building.

(b) Each numeral may be no less than 4 inches (102 mm) in height and no less than 3/4-inch (12.7mm) in stroke width.

(c) A rear building posting will not be required unless an alley or other public access exists to the rear of the lot or parcel on which the building is located.

(d) Front numerals must be posted on the building surface nearest the street or avenue nearest the front of the building. These numerals must be at a height and position so that the numerals can be easily read by a person of normal vision while seated in an emergency vehicle located in the street.

(e) Rear numerals must be posted on the building surface nearest the alley or other rear public access.

(6) 501.1.2 New and existing buildings, not classified in § 97.10(A) shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property.

(a) These numbers shall contrast with their background.

(b) Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

(c) These numerals must be at a height and position so that the numerals can be easily read by a person of normal vision while seated in an emergency vehicle located in the street.

(d) The placement and size of the numerals or sign must be approved by the Fire Marshal.

(7) MSFC 508.5.5 is amended to read:

508.5.5 Clear space around hydrants. A 10-foot (3.05 meters) clear space shall be maintained around the circumference of fire hydrants and a 3 foot vertical clearance above the highest portion of the hydrants shall be maintained except as otherwise required or approved.

(8) MSFC Section 912.3 is amended to read:

912.3 Access. Immediate access to fire department connections shall be maintained at all times and without obstruction by fences, bushes, trees, walls or any other object for a minimum of 10 feet (3.05 meters) in all directions except as otherwise required or approved.

(9) *MSFC Appendixes adopted.* The following appendixes to the MSFC are hereby incorporated as may be amended as part of the Fire Prevention Code of the City of St. Anthony:

(a) Appendix B Fire B Flow Requirements for Buildings;

(b) Appendix C B Fire Hydrant Locations and Distribution;

(c) Appendix D B Fire Apparatus Access Roads; and

(d) Appendix H B Fires or Barbecues on Balconies or Patios. The exception to Section 1.2 is deleted.

(B) *Copies on File.* Copies of the MSFC are on file with the Bureau and are available for public inspection.

(C) *Penalties.* A person who violates the provisions of the Minnesota State Fire Code or this ordinance after being given written notice shall be guilty of a misdemeanor. Each day's violation after notice thereof shall constitute a separate offense.

(1993 Code, § 1325.02) (Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

§ 97.03 BUREAU OF FIRE PREVENTION.

The Code will be enforced by the Bureau under the supervision of the Fire Chief.

(1993 Code, § 1325.03) (Ord. 08-001, passed 4-8-2008)

§ 97.04 FIRE MARSHAL.

(A) *Office of Fire Marshal.* There is hereby established as part of the Fire Department, the Office of Fire Marshal, which will be operated under the supervision of the Fire Chief.

(B) *Members.* The Fire Chief will designate 1 qualified member of the city's firefighters as Fire Marshal. The Fire Chief may assign members of the Fire Department to the Bureau as "Inspectors," as the Chief deems necessary to assist in carrying out the duties of the Office of Fire Marshal.

(C) *Duties.* The Fire Marshal will be responsible for enforcement of the Code.

(D) *Reports.* The City Fire Marshal will submit a written report to the City Manager in March of each year. The report must contain all proceedings undertaken by the Office of Fire Marshal under the Code during the preceding calendar year. This report may include any statistics as the Fire Chief desires.

(1993 Code, § 1325.04) (Ord. 08-001, passed 4-8-2008)

§ 97.05 DISTRICTS, ROUTES, AND FIRE LANES; ESTABLISHMENT.

(A) *Flammable liquids.* The limits referred to in the MSFC in which storage of flammable liquids in outside aboveground tanks is prohibited, will include those areas of Zones R and R/O.

(B) *Routes for vehicles transporting explosives.* The routes referred to in the MSFC for vehicles transporting explosives and blasting agents, are hereby established as follows:

- (1) Hennepin County Highway 88;
- (2) County Road C, east of Hennepin County Highway 88; and
- (3) Anthony Lane.

(C) *Routes for vehicles transporting hazardous chemicals.* Motor vehicle routes for vehicles transporting hazardous chemicals or dangerous articles, as described in the MSFC, are hereby established as follows:

- (1) Hennepin County Highway 88;
- (2) County Road C, east of Hennepin County Highway 88; and
- (3) Anthony Lane.

(1993 Code, § 1325.05) (Ord. 08-001, passed 4-8-2008)

§ 97.06 FIRE LANES.

(A) *Orders establishing.* The Fire Marshal may order the establishment of fire lanes on public or private property as may be necessary for travel of fire equipment and access to fire protection devices or buildings. When a fire lane has been ordered to be established, it shall be marked by a sign and painting of curbs and roadways according to the Minnesota Manual of Uniform Traffic Control Devices and as approved by the Fire Marshal bearing the words “No Parking - Fire Lane”. If there is a curb in

the fire lane, it must be painted yellow. The Fire Marshal may require the fire lane to be outlined in yellow on the pavement. When the fire lane is on public property or a public right-of-way, the sign or signs will be erected by the city. When the fire lane is on private property, the sign or signs will be erected by the owner at the owner's expense as directed by the Fire Chief. The signs must be erected within 30 days after notice of the order.

(B) *Obstruction; impoundment.* No person may leave a vehicle or other object unattended or otherwise occupy or obstruct a fire lane. When any motor vehicle or other object occupies or obstructs any duly designated fire lane in a manner inconsistent with the land's intended use for fire protection purposes, or prevents access to any fire hydrant or fire protection device in the normal and usual manner by fire protection personnel and equipment, the Fire Marshal or Police Department personnel may order the impoundment of the vehicle or other object. No vehicle impounded pursuant to the provisions of this section may be released until a release is obtained from the Police Department and all towing and storing charges have been paid.

(1993 Code, § 1325.06) (Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

§ 97.07 PARKING NEAR FIRE EQUIPMENT.

No person may park any vehicle or place any material or other obstruction within 20 feet of the entrance to any fire station or within 10 feet of any fire hydrant or fire protection device. Nor may any person park any vehicle within 300 feet of a place where a fire requiring fire fighting by the Fire Department is in progress.

(1993 Code, § 1325.08) (Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

§ 97.08 PROTECTION OF FIRE HOSES.

No person may drive any vehicle over a fire hose, except upon specific orders from a member of the Police or Fire Departments of the city, and then only with due caution.

(1993 Code, § 1325.09) (Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

§ 97.09 INTERFERENCE WITH FIRE DEPARTMENT DUTIES.

No unauthorized person may ride upon, race with, trail, or follow within 300 feet of, any apparatus belonging to the Fire Department when the apparatus is actively responding to an emergency call.

(1993 Code, § 1325.10) (Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

§ 97.10 ADDRESS NUMBERS REQUIRED ON BUILDINGS.

(A) Each owner of a 1- or 2-family dwelling in the city must post the correct street or avenue number of the building in a conspicuous place both on the front and rear of the building in accordance with this section.

- (1) House numbers must be in Arabic numerals, and of color contrasting to the building.
- (2) Each numeral may be no less than 4 inches (102 mm) in height and no less than 3/4 inch (12.7 mm) in stroke width.
- (3) A rear building posting will not be required unless an alley or other public access exists to the rear of the lot or parcel on which the building is located.
- (4) Front numerals must be posted on the building surface nearest the street or avenue nearest the front of the building. These numerals must be at a height and position so that the numerals can be easily read by a person of normal vision while seated in an emergency vehicle located in the street.
- (5) Rear numerals must be posted on the building surface nearest the alley or other rear public access. The numerals must be at a height and position such that the numerals can be easily read by a person of normal vision while seated in an emergency vehicle located in the alley or other rear access.

(B) New and Existing Buildings not classified in division (A) shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property.

- (1) These numbers shall contrast with their background.
 - (2) Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) height with a minimum stroke width of 0.5 inch (12.7 mm).
 - (3) These numerals must be at a height and position so that the numerals can be easily read by a person of normal vision while seated in an emergency vehicle located in the street.
 - (4) The placement and size of the numerals or sign must be approved by the Fire Marshal.
- (1993 Code, § 1325.11) (Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

§ 97.11 PATIOS AND BALCONIES.

(A) *Open flame prohibited.* In any structure containing 3 or more dwelling units, no person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet (4572 mm) of the structure.

(B) *Fuel storage prohibited.* No person shall store or use any fuel, barbeque, torch or other similar heating or lighting chemical in the locations designed in division (A).

(1993 Code, § 1325.12) (Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

§ 97.12 PERMITS REQUIRED.

No person may, without first making application for (on forms provided from the city), and obtaining, a permit; maintain, store, or handle materials or conduct, process, or install equipment when a permit is required by the MSFC for any such activity. A fee, periodically determined by resolution of the City Council, must be paid for each permit in accordance with the conditions set forth in the MSFC. All permits may be issued for a period of up to 1 year, but may be renewed if the applicant meets the requirements of the MSFC. The Office of Fire Marshal may revoke a permit or approval issued if any violation of the Code is found upon inspection, or if there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was granted.

(1993 Code, § 1325.13) (Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

§ 97.13 APPEALS.

If the Fire Marshal disapproves an application or refuses to grant a permit applied for, or revokes a permit, or when it is claimed that the provisions of any part of the Code do not apply, or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the person or persons aggrieved may appeal the decision of the Fire Marshal to the City Council within 30 days after the date of the decision.

(1993 Code, § 1325.14) (Ord. 08-001, passed 4-8-2008)

§ 97.14 FIRE PROTECTION EQUIPMENT; MONITORING.

Fire alarm systems and bells controlling the water supply and water-flow switches on automatic sprinkler systems shall be electronically monitored by an approved central station service in accordance to this section.

(A) *Application of requirements.* This section shall apply to the following:

(1) New fire alarm systems;

- (2) Existing fire alarm systems when upgrades or expanded;
 - (3) New sprinkler systems with 20 or more sprinkler heads;
 - (4) Existing sprinkler systems with 100 or more sprinkler heads; and
 - (5) Existing sprinkler systems when upgraded or expanded by 5 sprinkler heads or more and the number of sprinkler heads following upgrade or expansion is 20 or more.
- (B) *Distinctive signals.* General fire alarms, bells monitoring, water flow, trouble and supervisory signals shall be distinctively different and shall be automatically transmitted to an approved central station in accordance with National Fire Protection Association (NFPA) Standard 72.
- (C) *Certificate required.* An Underwriter's Laboratory (UL) 72 "Central Station Fire Alarm System Certificate" shall be required for all electrically monitored fire alarm and sprinkler systems and communicators.
- (D) *Public utilities accepted.* This section does not apply to underground key or hub valves in the roadway boxes provided by the city.
(Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

OPEN BURNING

§ 97.30 PROHIBITED.

Except as otherwise permitted by this subchapter, all open burning is prohibited in the City of St. Anthony.
(Ord. 08-001, passed 4-8-2008) Penalty, see § 10.99

§ 97.31 DEFINITIONS.

For the purpose of this subchapter chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BURNER. A firebox, barrel or similar container used for an outdoor fire, but not including grills or barbecues used principally for the cooking of food.

BURNING PERMIT. A permit issued by the Fire Chief or his designee authorizing fires exempted from the general provisions hereof and setting the conditions therefore.

CAMPFIRE. Shall have the same meaning as **RECREATIONAL FIRE**.

OPEN FIRE or **OPEN BURNING.** A fire in matter, whether concentrated or dispersed which is not contained within a fully enclosed firebox, structure, or vehicle, from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney.

PERSON. Any natural person acting either personally or in any representative capacity, a corporation, a firm, a co-partnership, or an association of any nature or kind.

RECREATIONAL FIRE. A fire set for cooking, warming or ceremonial purposes which is not more than 3 feet in diameter by 3 feet high and has had the ground 5 feet from the base of the fire cleared of all combustible materials.

STARTER FUELS. Dry, untreated, unpainted wood or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open fire.

WOOD. Dry, clean fuel such as twigs, branches, limbs, presto logs, charcoal, cord wood or untreated dimensional lumber. Wood does not include wood that is green, leaves or needles, rotten, wet, oil soaked or treated with pain, glue or preservatives. Clean pallets may be used for recreation fires when cut into three foot smaller lengths.

(Ord. 08-001, passed 4-8-2001)

§ 97.32 EXEMPTIONS.

The following types of open burning shall be exempted from the prohibition of § 97.30:

(A) Recreational fires or camp fires subject to the provisions of § 97.41;

(B) Fires purposely set under the supervision of the Fire Department for instruction and training; and

(C) Fires for which a burning permit has been obtained.

(Ord. 08-001, passed 4-8-2001)

§ 97.33 PERMIT REQUIRED.

Except for permits issued by the Minnesota Department of Natural Resources for fire training, the Fire Chief or designee may issue a burning permit for any of the following reasons:

- (A) Fire set for the elimination of fire hazard which cannot be abated by any other practical means;
- (B) Fires purposely set for forest and game management purposes when no other alternative methods are practical; and
- (C) Ground thawing for utility repair and construction.
(Ord. 08-001, passed 4-8-2001)

§ 97.34 PROHIBITED MATERIALS.

- (A) No permit may be issued for the open burning of oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke, such as tires, railroad ties, treated, painted or glued wood, composite shingles, tar paper, insulation, composition board, sheetrock, wiring paint or paint fillers or similar materials.
- (B) No permit shall be issued for the open burning of hazardous waste or salvage operations, solid waste generated from an industrial or manufacturing process or from a service or commercial establishment, or building material generated from demolition of commercial or industrial structures, or discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.
(Ord. 08-001, passed 4-8-2001)

§ 97.35 PERMIT PROCEDURES.

- (A) Application for a burning permit shall be submitted to the Fire Chief on a form prescribed by the city.
- (B) The Fire Chief, or designee, shall review the application to insure compliance with the provisions of this section and any applicable state laws and/or regulations.
- (C) The Fire Chief, or designee, may inspect the proposed burn site on such occasions and at such time as is deemed necessary to adequately review the application. Submission of the application shall constitute authorization for the Fire Chief, or designee, to enter the premises for this purpose.
- (D) Within 5 business days, excluding Saturdays, Sundays, and federal legal holidays, after the receipt of the application, the Fire Chief, or designee, shall either grant or deny the application.
(Ord. 08-001, passed 4-8-2001)

§ 97.36 PERMIT; DENIAL.

(A) Application for a burning permit may be denied for any of the following reasons:

- (1) The proposed fire or burn site does not meet the requirements of this section;
- (2) The Fire Chief, or designee, determines that there is a practical alternative method of disposal of the material;
- (3) The Fire Chief, or designee, determines that the fire would result in pollution or nuisance conditions;
- (4) The Fire Chief, or designee, determines that the burn cannot be safely conducted and no plan has been submitted to adequately address the safety concerns; or
- (5) The location of the burning shall not be within 600 feet of an occupied residence other than those located on the property on which the burning is conducted.

(B) The denial of any application shall be in writing and shall state the reasons for the denial.

(C) Any person aggrieved by the denial of a burning permit may appeal that decision to the City Council by submitting a written request or appeal to the Fire Chief within ten days after the date of the denial. The Fire Chief shall submit the appeal request to the City Manager for placement on the next available City Council agenda.

(Ord. 08-001, passed 4-8-2001)

§ 97.37 PERMIT HOLDER; RESPONSIBILITIES.

The holder of any permit shall be responsible for the following:

- (A) Have a valid permit in possession at the burn site at all times during the burn;
- (B) Prior to starting burn, confirming that no burning ban is in effect or the forecasted air quality index will be greater than 50;
 - (1) No burn shall occur when wind speed is in excess of 20 mph.
 - (2) No burn shall occur when wind gust is in excess of 20 mph.
- (C) Constant attendance by the permit holder or competent representative during a burning event;
- (D) Availability at the burn site of appropriate communication and fire suppression equipment as required by the permit or any fire safety plan approved by the city as part of the permit process;

(E) Not allowing the fire to smolder;

(F) Being sure that the fire is completely extinguished before the permit holder or representative leaves the site; and

(G) All costs incurred as a result of the burn including, but not limited to, fire suppression, administrative fees, property damage and personal injury.

(Ord. 08-001, passed 4-8-2001) Penalty, see § 10.99

§ 97.38 REVOCATION OF PERMIT.

An officer of the Minnesota Department of Natural Resources, the Fire Chief, the Assistant Fire Chief or the Fire Marshal may revoke any burning permit for appropriate reason including, but not limited to:

(A) A fire hazard exists or develops during the course of the burn;

(B) Pollution or nuisance conditions develop during the course of the burn;

(C) The fire smolders with no flame present; or

(D) Any of the conditions of the permit are violated during the course of the burn.

(Ord. 08-001, passed 4-8-2001)

§ 97.39 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire, campfire or open burning will be permitted when the city or the Minnesota Department of Natural Resources has officially declared a burning ban or restrictions due to potential hazardous fire conditions or when the Pollution Control Agency has forecast an Air Quality Index greater than 50.

(Ord. 08-001, passed 4-8-2001) Penalty, see § 10.99

§ 97.40 BURNERS; USE PROHIBITED.

(A) *Prohibition.* No person shall use a burner within the city.

(B) *Exception.* The use of “chimneas” and manufactured fire pits is allowed when used in accordance with §§ 97.37 and 97.41.

(Ord. 08-001, passed 4-8-2001) Penalty, see § 10.99

§ 97.41 CAMP FIRES; RECREATIONAL BURNING.

A permit is required. Recreational and camp fires require a permit, and must comply with the following requirements:

- (A) Burning shall occur between 9:00 a.m. and 11:00 p.m. on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays;
 - (B) Burning shall occur between 9:00 a.m. and midnight on Fridays and Saturdays;
 - (C) Burning may occur between 9:00 a.m. and midnight when the following day is a federal holiday;
 - (D) The fire shall not exceed 3 feet in diameter and a flame height of 3 feet from the adjacent ground level;
 - (E) Only clean wood or charcoal may be burned. No burning of trash, refuse, leaves or brush is allowed;
 - (F) The fire is ignited with an approved fire starter;
 - (G) The fire is constantly attended by a person knowledgeable in the use of fire extinguishing equipment and an attendant supervises the fire until the fire has been totally extinguished;
 - (H) Fire-extinguishing equipment, such as buckets, shovels or garden hoses, are readily available;
 - (I) The fire is not conducted within 25 feet of a structure or combustible materials;
 - (J) Any conditions that could cause a fire to spread within 25 of a structure shall be removed or eliminated prior to ignition; and
 - (K) Outdoor barbecue pits shall be constructed of concrete or approved noncombustible walls, roofs or other combustible material.
- (Ord. 08-001, passed 4-8-2001) Penalty, see § 10.99

§ 97.42 STATE ADMINISTRATIVE RULES ADOPTED.

M.S. §§ 88.01 through 88.22, 88.75 and 88.76 are hereby adopted by reference and made a part of this section as if fully set forth herein.
(Ord. 08-001, passed 4-8-2001)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. SEXUALLY-ORIENTED BUSINESSES**
- 111. LICENSES, PERMITS, AND THE LIKE**
- 112. ALCOHOLIC BEVERAGES**
- 113. PEDDLERS AND SOLICITORS**

CHAPTER 110: SEXUALLY-ORIENTED BUSINESSES

Section

- 110.01 City Council findings
- 110.02 Standards for sexually-oriented businesses

§ 110.01 CITY COUNCIL FINDINGS.

(A) The City Council has reviewed various reports regarding sexually-oriented businesses and has considered studies done in other cities, ordinances of other cities, court cases regarding sexually-oriented businesses, and other materials pertaining to adult uses and sexually-oriented businesses. In particular, the City Council has reviewed materials related to the adverse secondary characteristics related to adult uses and sexually-oriented businesses. The City Council has reviewed evidence taken from the City of Minneapolis, where studies have shown a strong correlation between sexually-explicit businesses and increased crime rates, and from the City of St. Paul, where studies have suggested such a correlation as well as a possible correlation between sexually-oriented businesses and depressed property values. The City Council has also relied upon evidence taken from reported court cases involving other municipalities which are smaller suburban cities in Minnesota and in other states. The City Council believes that the experiences of the cities of Minneapolis and St. Paul are relevant to the City of St. Anthony because of their close proximity, and that the smaller cities involved in cases from Minnesota and other states are similar in their position as relatively small suburbs to major metropolitan areas.

(B) After careful consideration of these materials and other materials, including the *Report of the Attorney General's Working Group on the Regulation of Sexually-Oriented Businesses* (Minnesota Attorney General's Office, 6-6-1989), and in order to prevent the problems that cities around the nation have encountered with the unregulated location of adult uses and sexually-oriented businesses in their communities, the St. Anthony City Council has arrived at the following findings and conclusions.

(1) The City Council finds that sexually-oriented businesses have adverse secondary characteristics, particularly when they may be accessible to minors or are located near residential properties or schools, churches, temples, synagogues, day-care centers, libraries, recreational areas and parks, and the businesses can exert a dehumanizing influence on persons attending or using the properties.

(2) Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which the businesses are located.

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(3) Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which the businesses are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

(4) The concentration of sexually-oriented businesses in 1 area can have a substantially detrimental effect on the area in which the businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of the businesses is perceived by others as an indication that the area is deteriorating and the result can be very detrimental. In many cases other businesses move out of the vicinity and residents flee from the area. Declining real estate values, which can result from the concentration of the businesses, erode the city's tax base and contribute to overall urban blight.

(5) The regulation of the location and operation of sexually-oriented businesses is warranted to prevent the adverse secondary effects of the businesses on the city's crime rate, its retail trade, its property values, and in general the quality of the city's neighborhoods, commercial and industrial districts, and urban life.
(1993 Code, § 1670.01)

§ 110.02 STANDARDS FOR SEXUALLY-ORIENTED BUSINESSES.

(A) *Generally.* The following standards shall apply to all sexually-oriented businesses in any district or location within the City of St. Anthony.

(B) *Specifically.*

(1) No sexually-oriented business shall be located closer than 400 feet from any other sexually-oriented business, or closer than 400 feet from any day-care facility, church, temple, synagogue, school, library, or publicly-owned park, playground, or other recreational facilities, or any facility selling intoxicating liquor, as defined in M.S. § 340A.101, as it may be amended from time to time. Measurements shall be made in a straight line, without regard to intervening structures or objections, from the nearest point of the actual premises of the sexually-oriented business or other facility.

(2) No sexually-oriented business shall be located closer than 400 feet from any property in the R-1, R-1A, R-2, R-3, R-4, R/O, or PUD District, or any residentially-zoned property in any city adjoining the city. Measurements shall be made in a straight line, without regard to intervening structures objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest boundary of the other district.

(3) No sexually-oriented business shall be located outside the Commercial District.
(1993 Code, § 1670.02) Penalty, see § 10.99

CHAPTER 111: LICENSES, PERMITS, AND THE LIKE

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LICENSING; GENERALLY

§ 111.001 LICENSING REQUIREMENTS.

(A) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LICENSE. Includes permits.

LICENSEE. Includes permittees.

(B) *Compliance required.* It is unlawful for any person either directly or indirectly to engage in any business, or to use in connection with a business any vehicle, premises, machine, or device for which a license is required under this chapter or any other law without first obtaining the applicable license and keeping it in effect at all times.

(C) *Doing business.* For the purpose of this chapter, a person is deemed to be engaged in a business for which a license is required when the person does 1 act of selling or offering for sale any goods or service for which a license is required, or soliciting the business, or using any vehicle or premises in the city for the purposes.

(D) *Agents responsible.* The agents or other representatives of persons doing business in the city are personally responsible for the compliance with this chapter by their principals and the businesses they represent.

(E) *Separate licenses for branches.* A license must be obtained for each branch location of a business, except that warehouses and distributing plants will not be deemed separate branches.

(F) *Deliveries only.* A license is not required for mere delivery of property purchased from a place of business outside the city.

(1993 Code, § 500.01) Penalty, see § 10.99

§ 111.002 APPLICATION.

(A) *Application form.* Applications for licenses and any renewals are to be filed with the City Manager upon forms provided by the City Manager. The application must contain all information required under the applicable section of this code and any other information required by the application form, and the following:

- (1) Name and address of applicant;
- (2) Purpose for which license is desired;
- (3) The place within the city where the business will be conducted; and
- (4) The length of time the license is to cover.

(B) *Signatures.* All questions on the application form must be answered and all required information must be furnished. Any application by an individual business owner must be signed by the owner; by a partnership must be signed by 1 of the partners; by a corporation must be signed by an appropriate officer of the corporation.
(1993 Code, § 500.02)

(C) *License Background Checks.*

(1) Purpose:

The purpose and intent of this section is to establish that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

(2) Criminal History License Background Investigations:

The St. Anthony Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following licenses within the city:

Fireworks Dealer
Liquor Licensing
Pawnbrokers
Peddlers and Solicitors
Physical Culture and Health Insurance Services and Clubs
Second Hand Dealers
and any other licenses the city deems appropriate

In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his/ her designee. A summary of the results of the Computerized Criminal History may be released by the Police Department to the licensing authority, including the City Manager, or other city staff involved the license approval process.

(3) Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provision of MN §364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicants request on this basis, the City shall notify the applicant in writing of the following:

- a. The grounds and reason for the denial.
- b. The applicant complaint and grievance procedure set forth in MN §364.06.
- c. The earliest date the applicant may reapply for the license.
- d. That all competent evidence of rehabilitation will be considered upon reapplication.

(Am. Ord. 2012-08, passed 10-23-2012)

§ 111.003 FEES, BOND, INSURANCE, AND DEPOSITS.

The applicant must pay the full amount of the fee required by this chapter and must file any bond, insurance policy, certificate, state license, or other document required for the license. The applicant must also make any damage deposit, cleanup deposit, or security deposit required by the city.
(1993 Code, § 500.03)

§ 111.004 NO PARTIAL FEES.

All fees must be paid in the full amount, and no reduction will be made because part of a license year has elapsed prior to the date the license is issued.
(1993 Code, § 500.04)

§ 111.005 ISSUANCE.

Upon compliance with all applicable requirements of this code, the City Manager will issue a license in accordance with this code. The City Council may revoke a license at any time, for cause, following a hearing conducted under § 111.014.
(1993 Code, § 500.05)

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§ 111.006 CONTENTS OF LICENSE.

Each license will state the following:

(A) Name of the licensee and any other name under which the business is to be conducted;

(B) Name and address of each business licensed;

(C) Amount of the license fee;

(D) Dates of issuance and expiration of the license; and

(E) Any other information as the City Manager or City Council may determine.

(1993 Code, §§ 500.06)

§ 111.007 LICENSE PERIOD.

A license will be valid for no more than 1 year and will terminate on the March 15 next following the date of issuance, unless a different termination date is specifically stated in this code. If a license is not renewed on or before March 15 of a given year, then the license will expire and terminate on March 15 of that year.

(1993 Code, § 500.07)

§ 111.008 DUPLICATES.

A duplicate license certificate or tag may be issued by the City Manager to replace any license certificate or tag previously issued which has been lost, stolen, defaced, or destroyed, upon certification of the fact by the licensee and payment of a replacement fee of \$5 or the other amount as may be specified in Chapter 33.

(1993 Code, § 500.08)

§ 111.009 REBATES.

No rebate or refund of any fee or part of a fee will be made by reason of non-use of a license, or by reason of a change in location or business rendering the use of the license ineffective. The City Manager may refund a fee collected in error, or in cases where the application is denied.

(1993 Code, § 500.09)

§ 111.010 DUTIES OF LICENSEE.

(A) *Conditions of license.* As a condition to the continuation of rights granted to a licensee under any license issued by the city, the licensee will have the duties set forth in this section.

(B) *City inspections.* A licensee must permit all reasonable inspections of the licensee's business and examinations of the licensee's books and records by city officials and any other officials authorized by law.

(C) *Compliance.* The licensee must ascertain and at all times comply with all applicable provisions of this code and any other laws, rules, or regulations applicable to the business.

(D) *Cease business.* The licensee must refrain from operating the licensed business after expiration of the license and during any revocation or suspension of the license.

(E) *License displayed.* The license and any other identification required by this code must be kept on display in a conspicuous place on the licensed premises and vehicles.

(F) *Not transferable.* A licensee may not loan, sell, give, or assign a license to any other person, or allow any other person to use, display or possess a license issued to the licensee.

(G) *Real estate taxes.* A licensee must pay prior to the date a penalty attaches for nonpayment, all special assessments and real and personal property taxes levied against real and personal property owned by the licensee and used in the licensed business.
(1993 Code, § 500.10)

§ 111.011 CHANGE OF LOCATION.

The location of licensed premises cannot be changed without the prior approval of the city.
(1993 Code, § 500.11)

§ 111.012 SEALING OF MACHINES.

Any vending machine, pinball machine, or amusement device which is defective or unsafe, or has no license insignia affixed, or is not currently licensed, may be sealed with tape or wire by the city to prevent its continued use. It is unlawful for any person to remove or deface such a seal except under direction of the city. No person may use any machine or device on which a seal has been affixed under this section.
(1993 Code, § 500.12) Penalty, see § 10.99

§ 111.013 REVOCATION OR SUSPENSION.

If the City Manager or other city official responsible for enforcement determines that a licensee has failed to comply with the license or this code, the City Manager will give the licensee written notice of the violation by mail or hand delivery to the address stated on the license application. If the licensee cannot be found, the notice may be posted on the licensed premises. The notice will require correction of the violation within a reasonable time as stated in the notice. If the violation is not corrected within the stated time, the license will automatically terminate unless a hearing is requested by the licensee by written notice mailed or delivered to the City Manager prior to expiration of the time period stated in the notice to the licensee.

(1993 Code, § 500.13)

§ 111.014 HEARING.

If a hearing is requested by a licensee in the manner required under § 111.013, the City Manager will set a time for the hearing to be held not less than 10 days and not more than 20 days after the request. At the hearing, the City Council will hear all testimony offered by the licensee, and inform the licensee of the basis for the notice of violation. After completion of the hearing, the City Council will determine whether to suspend, terminate, or continue the license.

(1993 Code, § 500.14)

AMUSEMENT DEVICES**§ 111.025 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

AMUSEMENT DEVICE. An electrical or mechanical machine for which a fee is charged to be used by the public as a game of skill, amusement, or play. ***AMUSEMENT DEVICES*** include, but are not limited to, shuffle boards; pinball machines; amusement machines patterned after baseball, basketball, hockey, bowling, tennis or other games; electric rifle or gun ranges; road racing or driving games; billiard, pool and table tennis tables; and coin-operated rides designed for use by small children.

(1993 Code, § 505.01)

§ 111.026 LIMITED NUMBER OF LICENSES.

No more than 75 licenses for amusement devices, as defined in § 111.025, shall exist in the city at any 1 given time. Not more than 15 licenses will be issued for any 1 establishment. If application is made for a license which if issued would cause the number of amusement device licenses to exceed the maximum, the City Council shall table action on the license and shall consider it only when issuance of the license would not be in excess of the maximum number specified in this section.
(1993 Code, § 505.02)

§ 111.027 ISSUED TO OPERATOR.

A license for amusement devices shall be issued only to the person or business entity which directly operates the business establishment in which the amusement devices are used.
(1993 Code, § 505.03)

§ 111.028 RENEWALS.

When existing amusement device licenses expire, they will be available for renewal by the same licensee for a period of 30 days after expiration of the license. Any renewal will be considered prior to any pending applications for new licenses.
(1993 Code, § 505.04)

§ 111.029 PRIORITY FOR AVAILABLE LICENSES.

If action has been tabled on 1 or more applications for amusement device licenses and licenses subsequently became available, these applications will be considered by the City Council according to the chronological priority of the filing of the applications.
(1993 Code, § 505.05)

§ 111.030 EXPIRATION OF LICENSES FOR FAILURE TO OPERATE.

If the licensee does not have the amusement devices for which the license was issued available for use by the public within 6 months after the license is issued, or if use of the amusement devices is discontinued for a period of 6 months, the license shall expire and shall be available for issuance to other licensees. No portion of the license fee will be refunded after it is paid, even if the license is not in effect for its full term.
(1993 Code, § 505.06)

TOBACCO**§ 111.045 PURPOSE.**

The city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, tobacco related devices, and electronic delivery devices, the sales, possession, and use of which are violations of both state and federal laws. The city further recognizes the public health hazards of exposure of individuals to secondhand smoke. This subchapter is intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco related devices, and electronic 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, and electronic delivery devices, to protect individuals from the hazards of secondhand smoke, and to further the official public policy of the State of Minnesota as stated in M.S. § 144.391 and M.S. § 144.412, as they may be amended from time to time.

§ 111.046 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPLIANCE CHECKS. The process the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, or tobacco related devices are complying with the requirements of this subchapter. ***COMPLIANCE CHECKS*** shall involve minors who are authorized by this subchapter, state and federal regulations and who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research, and training purposes, and for the enforcement of the aforementioned city, state, and federal regulations pertaining to tobacco, tobacco products, and tobacco related devices.

ELECTRONIC DELIVERY DEVICE. Any product 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 shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for the approved purpose.

INDIVIDUALLY PACKAGED. The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered ***INDIVIDUALLY PACKAGED***.

INDOOR AREA. All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge window screen with an 18 by 16 mesh count is not a wall.

LOOSIES. Common term referring to a single or individually packaged cigarette.

MINOR. Any person who has not yet reached the age of 18 years.

MOVEABLE PLACE OF BUSINESS. 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 transaction.

PLACE OF EMPLOYMENT. Any indoor area at which two or more individuals perform any type of a service for consideration of payment under any type of contractual relationship, including, but not limited to, an employment relationship with or for a private corporation, partnership, individual, or government agency. Place of employment includes any indoor area where two or more individuals gratuitously perform services for which individuals are ordinarily paid. A place of employment includes, but is not limited to, public conveyances, factories, warehouses, offices, retail stores, restaurants, bars, banquet facilities, theaters, food stores, banks, financial institutions, employee cafeterias, lounges, auditoriums, gymnasiums, restrooms, elevators, hallways, museums, libraries, bowling establishments, employee medical facilities, and rooms or areas containing photocopying equipment or other office equipment used in common. Vehicles used in whole or in part for work purposes are places of employment during hours of operation if more than one person is present. An area in which work is performed in a private residence is a place of employment during hours of operation if:

(1) the homeowner uses the area exclusively and regularly as a principal place of business and has one or more on-site employees; or

(2) the homeowner uses the area exclusively and regularly as a place to meet or deal with patients, clients, or customers in the normal course of the homeowner's trade or business.

PUBLIC MEETING. *All meetings open to the public pursuant to Minn. Stat. § 13D.01.*

PUBLIC PLACE. Any enclosed, indoor area used by the general public, including, but not limited to, restaurants; banks; bars; restaurants; any other food or liquor establishment; hotels and motels; reception areas; retail establishments and other commercial establishments; shopping malls; educational facilities; hospitals; nursing homes; auditoriums; arenas; meeting rooms; waiting rooms; and common areas of rental apartment buildings.

RETAIL ESTABLISHMENT. Any place of business where tobacco, tobacco products, tobacco related devices, or electronic delivery devices are available for sale to the general public. **RETAIL ESTABLISHMENTS** shall include, but not limited to, grocery stores, convenience stores, and restaurants.

SALE. Any transfer of goods for money, trade, barter, or other consideration.

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related 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 tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

SMOKING. Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, tobacco related device, or any other lighted or heated tobacco or plant product, or inhaling or exhaling vapor from any electronic delivery device. **SMOKING** shall include carrying a lighted or heated cigar, cigarette, pipe, tobacco related device, electronic delivery device, or any other lighted or heated tobacco or plant product intended for inhalation.

TOBACCO or TOBACCO PRODUCTS. Any substance or item containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco; hookah tobacco; snuff; fine cut or other chewing tobacco; dipping tobacco; snus; bidis, or any other preparation of tobacco; cheroots; stogies, perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product approved by the United States Food and Drug Administration for use as a medical treatment to reduce and eliminate nicotine or tobacco dependence.

TOBACCO RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products. **TOBACCO RELATED DEVICES** include components of tobacco related devices which may be marketed or sold separately.

VENDING MACHINE. Any mechanical, electric, or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other forms of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

(1993 Code, § 510.02) (Am. Ord. 2011-01, passed 4-26-2011)

§ 111.047 LICENSE REQUIRED.

(A) *Generally.* No person may directly or indirectly or by means of any device keep for retail sale, sell at retail, offer to sell or otherwise dispose of any tobacco, tobacco products, or tobacco related devices, at any place in the city unless a license has first been issued by the City Council as provided in this section.

(B) *Specifically.*

(1) *Application.* An application for a license to sell tobacco, tobacco products, and tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses, and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary.

(2) *Action.* The City Council may either approve or deny the license, or it may delay action for any reasonable period of time as necessary to complete any investigation of the application or the applicant that it deems necessary. If the City Council approves the application, the Licensing Clerk shall issue the license to the applicant. If the City Council denies the application, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

(3) *Term.* All licenses issued under this subchapter shall be valid for 1 calendar year from the date of March 15.

(4) *Revocation or suspension.* Any license issued under this subchapter may be revoked or suspended as provided in § 111.056.

(5) *Transfers.* All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to any other location or person shall be valid without the prior approval of the City Council.

(6) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this subchapter.

(7) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

(8) *Renewals.* The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days prior, but no more than 60 days before the expiration of the current license. The license holder is not entitled to an automatic renewal of the license.

§ 111.048 FEE.

If an application is granted by the City Council, a license will be issued by the Licensing Clerk upon payment in full, of the fee required under Chapter 33.

§ 111.049 BASIS FOR DENIAL OF LICENSE.

The following shall be grounds for denying the issuance of or renewal of a license under this subchapter; if a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

(A) The applicant is under the age of 18 years of age.

(B) The applicant has been convicted within the past 5 years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco products, or tobacco related devices.

(C) The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding 12 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.

(F) Nonpayment by the property owner and/or applicant of any fees or charges owed to the city and/or county, including but not limited to utilities and property taxes.

§ 111.050 PROHIBITED SALES.

It shall be a violation of this subchapter for any person to sell or offer to sell any tobacco, tobacco product, tobacco related device, or electronic delivery device:

(A) To a minor;

(B) By a vending machine, in violation of § 111.051;

(C) By self-service methods in violation of § 111.052;

(D) As “loosies”, as defined in § 111.046;

(E) If the tobacco or tobacco products contain opium, morphine, jimsonweed, belladonna, strychnos, cocaine, marijuana, or other delirious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process; and/or

(F) To any other person, in any other manner or form prohibited by federal or state law or regulation, or by local ordinance.

§ 111.051 VENDING MACHINES.

It shall be unlawful for any person licensed under this code to allow the sale of tobacco, tobacco products, or tobacco related devices, or electronic delivery devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

§ 111.052 SELF-SERVICE SALES.

(A) It shall be unlawful for a licensee under this code to allow the sale of single packages of cigarettes or smokeless tobacco if the customer may have access to the items without having to request the item from the licensee or the licensee's employees and if there is not a physical exchange of the single packages of cigarettes or smokeless tobacco between the licensee or the licensee's clerk and the customer. All single packs of cigarettes or smokeless tobacco shall either be stored behind a counter, in a case or other storage unit not left open and accessible to the general public, or otherwise are not freely accessible to customers. Any retailer selling single packs of cigarettes or smokeless tobacco at the time of adoption of this subchapter, shall have 60 days to comply with this section.

(B) At such time as the FDA regulations regarding self-service of tobacco products are adopted, those provisions shall be adopted by reference and supercede the current self-service language of this section.

§ 111.053 RESPONSIBILITY.

All licensees under this subchapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, or electronic 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 subchapter shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this subchapter, state or federal law, or other applicable law or regulation.

§ 111.054 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the Police Department or other authorized city official during regular business hours. 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 15 years but less than 18 years, to enter the licensed premises to attempt to purchase tobacco, tobacco products, tobacco related devices, or electronic delivery devices. Minors used for the purpose of compliance checks shall be supervised by 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 the items are obtained as a part of the compliance

check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or the licensee's employee and shall produce any identification, if any exists, for which the minor is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

§ 111.055 OTHER ILLEGAL ACTS.

(A) *Other illegal acts by minors.* Unless otherwise provided, it shall be unlawful for any minor:

- (1) To have in his or her possession any tobacco, tobacco product, or tobacco related device, or electronic delivery device except as permitted in § 111.054;
- (2) To smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device, or electronic delivery device; and
- (3) To purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, or electronic delivery device; and/or
- (4) To attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(B) *Illegal acts by others.* It shall be unlawful to any person:

- (1) To purchase or otherwise obtain any tobacco, tobacco product, tobacco related device, or electronic delivery device on behalf of a minor; and/or
- (2) To coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco related device, or electronic delivery device.

§ 111.056 VIOLATIONS.

(A) (1) *Notice.* Upon discovery of suspected violation, the alleged violator may 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.

(2) *Hearings.* If a person who has been issued a citation, requests a hearing, it shall be scheduled and the time, date and place shall be published and provided to the accused violator.

(3) *Hearing officer.* The Police Chief shall serve as the hearing officer.

(4) *Decision.* If the hearing officer determines that a violation did occur, that decision, as well as the hearing officer's reasons for finding a violation and the penalty to be imposed under this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. If the hearing officer finds that no violation occurred or finds ground for not imposing any penalty, the findings shall be recorded and a copy provided to the acquitted accused violator.

(5) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court having jurisdiction over the city.

(6) *Gross misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a gross misdemeanor for any alleged violation of this subchapter. If the city elects to seek gross misdemeanor prosecution, no administrative penalty shall be imposed.

(7) *Continued violation.* Each violation and each day in which a violation occurs or continues, shall constitute a separate offense.

(B) (1) *Licensees.* Any licensee or employee found to have violated this subchapter, shall be charged a gross misdemeanor.

(2) *Other individuals.* Other individuals and who are not minors regulated by division (B)(3) below, found to be in violation of this subchapter shall be charged an administrative fine of \$50.

(3) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products, or tobacco related devices, shall be remanded to the custody of their parents and required to attend and complete tobacco related diversion programs.

(4) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this subchapter.

(C) Nothing in this subchapter shall prevent the providing of tobacco, tobacco products, and tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this subchapter for a person to have reasonably relied on proof of age as described by state law.

§ 111.057 SMOKING PROHIBITED.

Smoking shall be prohibited, and no person shall smoke, in a public place, at a public meeting, in a place of employment, or in public transportation.

(1993 Code, §510, Penalty, see §10.99)

(Ord. 2011-01, passed 4-26-2011)

(Ord. 2012-01, passed 1-24-2012)

(Ord. 2014-02, passed 9-3-2014)

MOBILE HOME PARKS

§ 111.070 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MOBILE HOME. Any motor vehicle trailer, motor home, camper, or recreational vehicle which is designated or can be used for living or sleeping purposes.

MOBILE HOME PARK. An approved area, lot or parcel of land, designed, reserved, and maintained for the parking of mobile homes for occupancy.

(1993 Code, § 525.01)

§ 111.071 LICENSE REQUIRED.

No person may operate a mobile home park within the city without first obtaining a license to do so from the City Council.

(1993 Code, § 525.02) Penalty, see § 10.99

§ 111.072 PROHIBITION IN RESIDENTIAL DISTRICTS.

No mobile home park may be operated or maintained within any portion of any residential district of the city.

(1993 Code, § 525.03) Penalty, see § 10.99

§ 111.073 FEE.

The license fee for a mobile home park will be the amount set forth in Chapter 33.

(1993 Code, § 525.04)

§ 111.074 SANITARY CONDITIONS.

The health and sanitary condition of a mobile home park must, at all times, comply with the rules and regulations of the State Department of Health and the provisions of this code.

(1993 Code, § 525.05) Penalty, see § 10.99

§ 111.075 FACILITIES REQUIRED.

No mobile home may be parked within the city for a period of more than 24 hours unless there is continuously available to the occupants of the mobile home, running water, and toilet facilities on the property upon which the mobile home is parked.

(1993 Code, § 525.06) Penalty, see § 10.99

§ 111.076 DEPOSIT OF WASTES.

It is unlawful to permit waste water from sinks, showers, or other fixtures in mobile homes to be deposited on any property within the city.

(1993 Code, § 525.08) Penalty, see § 10.99

§ 111.077 REMOVAL OF RUNNING GEAR.

No person may remove the running gear or wheels of a mobile home and continue to occupy the mobile home as a dwelling without first complying with all applicable provisions of this code and obtaining from the Building Inspector a permit to occupy the mobile home as a dwelling.

(1993 Code, § 525.08) Penalty, see § 10.99

MANUFACTURED HOME PARKS CLOSURE**§ 111.090 PURPOSE.**

In view of the unique nature and issues presented by the closure or conversion of manufactured home parks, the City Council finds that public health, safety, and general welfare will be promoted by requiring relocation assistance and/or compensation to displaced residents of the parks. The purpose of this subchapter is to require park owners to pay displaced residents reasonable relocation costs and purchasers of manufactured home parks to pay alternative compensation, pursuant to the authority granted under M.S. § 327C.095, as it may be amended from time to time.

(1993 Code, § 526.01)

§ 111.091 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLOSING STATEMENT. A statement prepared by the park owner clearly stating the park is closing, addressing the availability, location, and potential costs of adequate replacement housing within a 25-mile radius of the park that is closing and the probable relocation costs of the manufactured homes located in the park.

DISPLACED RESIDENT. A resident of an owner-occupied manufactured home who rents a lot in a manufactured home park, including the members of the resident's household, as of the date park owners submit a closure statement to the city's Planning Commission.

LOT. An area within a manufactured home park, designed and used for the accommodation of a manufactured home.

MANUFACTURED HOME. A structure, not affixed to or part of the real estate, transportable in 1 or more sections, which in the traveling mode, is 8 feet or more in width or 40 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 a permanent foundation when connected to the required utilities, and included the plumbing, heating, air conditioning, and electrical system contained in it.

MANUFACTURED HOME PARK. Any site, lot, field, or tract of land upon which 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.*** This definition does not include facilities which are open only during 3 or fewer seasons a year.

PARK OWNER. The owner of a manufactured home park and any person acting on behalf of the owner in the operation or management of a park.

PERSON. Any individual, corporation, firm, partnership, incorporated and unincorporated association of any other legal or commercial entity.
(1993 Code, § 526.02)

§ 111.092 NOTICE OF CLOSING.

If a manufactured home park is to be closed, converted in whole or part to another use or terminated as a use of the property, the park owner shall, at least 9 months prior to the closure, conversion to another use or termination of use, provide a copy of a closure statement to a resident of each manufactured home and to the Planning Commission.

(1993 Code, § 526.03) Penalty, see § 10.99

§ 111.093 NOTICE OF PUBLIC HEARING.

The Planning Commission shall submit the closures statement to the City Council and request the City Council to schedule a public hearing. The city shall mail a notice at least 10 days prior to the public hearing to a resident of each manufactured home in the park stating the time, place, and purpose of the hearing. The park owner shall provide the city a list of the names and addresses of at least 1 resident of each manufactured home in the park at the time the closure statement is submitted to the Planning Commission.

(1993 Code, § 526.04)

§ 111.094 PUBLIC HEARING.

A public hearing shall be held before the City Council for the purpose of reviewing the closure statement and evaluating what impact the park closing may have on the displaced residents and the park owner. Within 90 days, a hearing will be held after receiving a closure statement.

(1993 Code, § 526.05)

§ 111.095 PAYMENT OF RELOCATION COSTS.

(A) After service of the closure statement by the park owner and upon submittal by the displaced resident of a contract or other verification of relocation expenses, the park owner shall pay to the displaced resident the reasonable cost of relocating the manufactured home to another manufactured home park located within a 25-mile radius of the park that is being closed, converted to another use, or ceasing operating.

(B) Reasonable relocation costs shall include:

(1) The actual expenses incurred in moving the displaced resident's manufactured home and personal property, including the reasonable cost of disassembling, moving, and reassembling any attached appurtenance, such as porches, decks, skirting and awnings, which were not acquired after notice of closure or conversion of the park, and utility "hook-up" charges;

(2) The costs of insurance for the replacement value of the property being moved; and

(3) The costs of repairs or modifications that is required in order to take down, move, and set up the manufactured home.

(1993 Code, § 526.06) Penalty, see § 10.99

§ 111.096 PAYMENT OF ALTERNATE COMPENSATION.

(A) If a resident cannot relocate the manufactured home within a 25-mile radius of the park that is being closed or some other agreed upon distance, the resident is entitled to additional compensation to be paid by the owner of the park, in order to mitigate the adverse financial impact of the park closing. If the resident tenders the title to the manufactured home, the alternate compensation shall be in an amount equal to the estimated market value of the manufactured home. The value is determined by a current appraisal performed by either an appraiser designated by the park owner, and approved by the City Manager, or the County Assessor's market value. The resident has the option to choose 1 or the other. This appraisal shall start no later than 30 days after the notice of park closure and end no later than 120 days before park closure. The park owner will incur all costs. The park owner shall pay the compensation into an escrow account, established by the park owner, for distribution upon transfer of title to the home. The compensation shall be paid to the displaced residents no later than 90 days prior to the closing of the park or its conversion to another use.

(B) Title to manufactured homes shall be presented to the park owner or purchaser concurrent to receiving compensation.

(C) If a resident cannot relocate the manufactured home within a 25-mile radius of the park which is being closed or some other agreed upon distance, and the resident elects not to tender title to the manufactured home, the resident is entitled to relocation costs based upon an average of relocation costs awarded to other residents in the park.

(D) The total compensation to be paid to displaced residents by the park owner and purchaser of the park shall not exceed 25% of the purchase price of the park.

(1993 Code, § 526.07) Penalty, see § 10.99

§ 111.097 VERIFICATION COSTS.

The displaced resident must arrange for relocating the manufactured home and submit a contract or other verified cost estimate to the park owner as a condition to the park owner's liability to pay relocation expenses and pay the relocation costs identified in this subchapter.

(1993 Code, § 526.08)

§ 111.098 ENFORCEMENT.

(A) Violation of any provision of this subchapter shall be a misdemeanor.

(B) Injunction or other appropriate civil remedy may enforce any provision of this subchapter.

(C) The city may withhold issuance of a building permit in conjunction with reuse of manufactured home park property, unless the park owner has paid reasonable relocation costs and the purchaser of the park has provided alternative compensation in accordance with the requirements of this subchapter.

Approval of any application for rezoning platting, conditional use permit, planned unit development, or variance in conjunction with a park closing or conversion shall be conditional on compliance with the requirements of this subchapter.

(1993 Code, § 526.09)

TOWING SERVICES

§ 111.110 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MOTOR VEHICLE SERVICE. Starting or attempting to start, or towing or pushing, another motor vehicle by any type of electrical device or battery for remuneration or compensation of any kind, or operating a vehicle for the purposes, but excluding multi-vehicle transports.

(1993 Code, § 530.01)

§ 111.111 LICENSE REQUIRED.

No person may provide motor vehicle service within the city without being duly licensed in accordance with this subchapter.

(1993 Code, § 530.02) Penalty, see § 10.99

§ 111.112 APPLICATION.

(A) An application for license must be filed with the City Manager on forms provided by the Manager.

(B) The application must be verified under oath and contain the information required under § 111.002, plus the following information:

(1) The name or names of the owners and operators and their respective resident addresses and home phone numbers;

(2) The name under which the business is to be conducted, the address where the business is to be located, and its business phone number;

(3) A current schedule of minimum charges to be made for service calls where service is for any reason not provided. Immediate notification of any changes in the minimum fees schedule must be made to the City Manager;

(4) A description of each vehicle to be used in the business;

(5) Information with respect to the owner's prior experience in operating businesses similar to that in which the licensed service vehicle will be used, including the name under which each such business was operated and its address, length of time operated, and whether any claims for damage were made against the business as a result of motor vehicle services; and

(6) Any other information as may from time to time be required.
(1993 Code, § 530.03)

§ 111.113 LICENSE FEE.

The annual license fee will be the amount set forth in Chapter 33.
(1993 Code, § 530.04)

§ 111.114 LICENSE EXPIRATION DATE.

Licenses granted under this subchapter will expire on September 1 of each year.
(1993 Code, § 530.05)

§ 111.115 EQUIPMENT; INSPECTION.

(A) No service vehicle will be licensed until it has been thoroughly and carefully examined by the city's Police and Fire Departments and found to:

(1) Be thoroughly safe for the providing of any motor vehicle service;

(2) Be equipped with a 2AIOBC or larger fire extinguisher, as approved by the Fire Chief, which is properly charged and in good working order at all times;

(3) Be clean in appearance and well painted; and

(4) Have the operating name, address, and telephone number affixed in a permanent manner on the outer side of each of the front doors of the vehicle or on the side of the vehicle in letters of not less than 3 inches in height.

(B) The Manager may also require periodic or random inspections of service vehicles after a license has been granted. Any defect found in a service vehicle which may cause a safety or fire hazard must be corrected prior to its further use.
(1993 Code, § 530.06)

§ 111.116 DISPLAY OF LICENSE.

When the requirements of this subchapter are complied with, a suitable license certificate or sticker for each licensed service vehicle issued will be to the licensee. The license, certificate, or sticker must be permanently and prominently affixed and displayed at all times on the upper 1/2 of the driver's door or the service vehicle.

(1993 Code, § 530.07)

§ 111.117 POSTING FEE SCHEDULE.

The schedule of minimum fees must be posted at the business location and on or in the service vehicle. Upon request, a copy of the schedule must be presented to each prospective customer. If a service vehicle is called by an individual seeking assistance and assistance cannot be given or is no longer needed, the maximum charge which may be assessed must be the minimum service charge stated in the license application and on the posted schedule of fees.

(1993 Code, § 530.08)

§ 111.118 RECEIPT FOR SERVICES.

The licensee must give to the person to whom services are rendered a printed form receipt stating the name of the business supplying the services, the license number under which the licensee is doing business, the fee charged for the services, and the name of the operator of the service vehicle rendering the services.

(1993 Code, § 530.09)

§ 111.119 POSSESSORY LIEN.

No possessory lien will attach for motor vehicle services performed on any vehicle where the services are limited to starting or attempting to start the vehicle. It is unlawful for any person to seize or take into custody any vehicle in order to collect fees or charges for the services, except with the express consent of the driver or owner or agent of the owner of the vehicle.

(1993 Code, § 530.10) Penalty, see § 10.99

§ 111.120 DENIAL, SUSPENSION, AND REVOCATION.

Any license under this subchapter may be denied, suspended, revoked, or refused renewal for any 1 or more of the following causes:

(A) No licensee may provide any motor vehicle service to any motor vehicle involved in an accident when a police officer or other peace officer is investigating that accident, without permission of that officer;

(B) No licensee may solicit or contract for the providing of motor vehicle services to any vehicle involved in an accident at the scene of that accident, until a police officer has arrived and given permission to do so; and

(C) Any licensee providing towing services to any motor vehicle involved in an accident must remove or cause to be removed any glass or other injurious substance dropped upon the street or highway from the vehicle towed.

(1993 Code, § 530.11)

§ 111.121 INSURANCE.

Each applicant for a license under this subchapter must file with the City Manager a public liability policy or certificate of insurance from a company authorized to do business in Minnesota insuring the applicant against any and all liability incurred in the use or operation of the vehicle licensed under this subchapter. The policy of insurance must be in the amounts of not less than \$100,000 for injury or death to 1 person, \$300,000 for each occurrence, and \$25,000 property damage.

(1993 Code, § 530.12)

SECURITY ALARMS

§ 111.150 PURPOSE AND SCOPE.

This subchapter is intended to protect the public safety and to avoid misuse and careless or negligent operation of certain security alarms.

(1993 Code, § 540.01)

§ 111.151 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALARM. A mechanical, electrical, or electronic device designed to detect unauthorized entry, but excluding such a device affixed to a motor vehicle.

ALARM AGENT. A person employed by or contracting with an alarm business, either directly or indirectly, whose duties include selling, maintaining, leasing, servicing, repairing, altering, replacing, moving, or installing any alarm.

ALARM BUSINESS. Any person engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing, or monitoring any alarm for another person for compensation.

ALARM USER. A person in control of any building, structure, or facility wherein an alarm is maintained.

AUDIBLE ALARM. A device designed for the detection of unauthorized entry at a building by an audible signal at the building.

AUTOMATIC DIALING DEVICE. A device connected with a telephone line and designed or programmed to automatically select a predetermined telephone number and transmit a message or signal indicating the need for emergency police assistance.

FALSE ALARM. An alarm signal when a response by police is not in fact required, but excluding an alarm caused by storm or other conditions beyond the reasonable control of the alarm and alarm user.

PROPRIETOR ALARM. An alarm which is not serviced by an alarm business.

SUBSCRIBER. A person contracting with a business for the leasing, servicing, or maintenance of an alarm.
(1993 Code, § 540.02)

§ 111.152 ALARM REQUIREMENTS AND PROHIBITIONS.

(A) *Alarm standards.* The Chief of Police may recommend to the City Council minimum standards for the construction, maintenance, inspection, and approval of alarms. The standards will become effective upon adoption by City Council resolution, and thereafter all alarms must meet or exceed the standards before being licensed.

(B) *False alarm reports required.* A report must be filed with the Chief of Police by the alarm user within 10 working days after any false alarm transmitted to the Police Department. The report must contain information specified by the Chief of Police.

(C) *Audible alarm requirements.* Audible alarms must meet the following requirements.

(1) An audible alarm user must post a notice, containing the name and telephone number of persons to be notified for repairs or service, to the alarm during any hour of the day or night that the alarm may be activated. This information may alternatively be on file with the Police Department. The notice must be posted at the main entrance to the building or near the alarm in a position legible from ground level.

(2) No audible alarm may have a signal similar to police or fire sirens.

(3) Audible alarms must have an automatic shut-off to silence the alarm within a period not to exceed 20 minutes.

(D) *Automatic dialing device.* No person may install, use, or maintain an automatic dialing device.

(E) *Alarm agent.* No person may act as an alarm agent unless employed by a licensed alarm business.

(1993 Code, § 540.03) Penalty, see § 10.99

§ 111.153 LICENSE REQUIRED.

(A) *Alarm business.* No person may own or operate an alarm business without the license required under this subchapter.

(B) *Alarm users.* No person may install or use an alarm without the license required under this subchapter.

(1993 Code, § 540.04)

§ 111.154 APPLICATION AND ISSUANCE.

(A) *Issuing authority.* Licenses under this subchapter will be issued by the City Manager after approval by the approving authority.

(B) *Approving authority.* The approving authority must be the Chief of Police for all alarm users.

(C) *Applications.* Applications for licenses must be filed with the City Manager on forms provided by the City Manager. The application must include the following:

(1) Name and address of applicant and telephone number of the premises in which the alarm is installed;

(2) Name and address of maker, owner, lessor, or other person responsible for the installation, maintenance, or operation of the alarm;

(3) Type, make, and location of each alarm; and

(4) Any other pertinent information as may be from time to time required by the city.

(D) *Investigations.* The Police Department will review the application of an alarm user, and investigate the alarms to be licensed by the alarm user and their locations.

(1993 Code, § 540.05)

§ 111.155 FEES.

(A) *Alarm business license.* The annual license fee stated in Chapter 33 is due and payable on July 1 of each year for each alarm business. The license fee will not be prorated.

(B) *Alarm user.* The annual license fee stated in Chapter 33 is due and payable on July 1 of each year by each alarm user. License fees will be prorated on a monthly basis. When the annual permit is not paid to the city in accordance to the annual fee stated in Chapter 33, the annual fee will be added to the alarm user's utility bill.

(C) *Fee exemptions.* The United States Government, the State of Minnesota, the Counties of Hennepin and Ramsey, the City of St. Anthony, or any departments thereof, are exempt from the fee requirements of division (B) above.

(D) *Responses to false alarms.*

(1) Fees for false alarms must be paid to the city by the alarm user in accordance with this section. If fee is not paid to the city in accordance with this section, the fee will be added to the alarm user's utility bill by the City Finance Director. No fee will be charged for a response to a false alarm where not more than 2 false alarms occur within a 12-month period.

(2) The sum of \$75 must be paid to the city by the alarm user for each false alarm response after the second response within a 12-month period. This fee increases by \$25 for each subsequent alarm thereafter in the same period.

(1993 Code, § 540.06)

§ 111.156 SUSPENSION AND REVOCATION OF LICENSES.

(A) *Basis for suspension and revocation.* The city may revoke or suspend a license for any 1 or more of the following reasons:

(1) Violation of this subchapter;

(2) The actions of the licensee or the licensee's alarm agent are contrary to the public safety or general welfare;

(3) False alarms in excess of 3 in a 6-month period are the result of the failure to take necessary corrective action prescribed by the Chief of Police; and/or

(4) Six or more false alarms in a 6-month period.

(B) *Disconnection of alarms.* Upon suspension or revocation of an alarm user's license, the Chief of Police may order disconnection of the alarms unless the premises are required by law to have the alarms.

(1993 Code, § 540.07)

§ 111.157 CONFIDENTIALITY.

(A) *Submitted information confidential.* All information submitted under this subchapter is confidential and exempt from discovery.

(B) *Statistics.* Subject to the requirements of confidentiality, the City Manager or a designated representative may develop, maintain, and publish statistics pertaining to this subchapter.

(1993 Code, § 540.08)

RECREATIONAL ESTABLISHMENTS

§ 111.170 PURPOSE AND SCOPE.

This subchapter is intended to preserve and protect the common welfare and to promote the public peace, health, and order by regulating the hours of operation of certain establishments. The City Council finds that certain recreational establishments open between the hours of 1:00 a.m. and 6:00 a.m. adversely affect or endanger the public morality and health; disturb the peace and quiet of the community; induce crime, juvenile delinquency and other antisocial conduct; and reduce neighboring property values.

(1993 Code, § 545.01)

§ 111.171 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

RECREATIONAL ESTABLISHMENT. A theater, restaurant, drive-in restaurant, delicatessen, cafeteria, pool or billiard hall, video arcade, physical culture or health gym, spa or club, an establishment having more than 3 amusement devices as defined in § 111.025, bowling alley or establishment primarily for the sale of beverages for consumption on the premises.

(1993 Code, § 545.02)

§ 111.172 HOURS OF OPERATION.

Every recreational establishment within the city must be closed to the public between the hours of 1:00 a.m. and 5:00 a.m.
(1993 Code, § 545.03)

LICENSING OF MULTIPLE DWELLINGS**§ 111.185 PURPOSE.**

It is the purpose of this subchapter to protect the health, safety, and welfare of citizens of the city who have as their place of abode a living unit in a multiple dwelling.
(1993 Code, § 550.01)

§ 111.186 INTENTION; UNIFORM STANDARDS.

It is the intention of this subchapter that a mode of protecting and regulating the living conditions of citizens residing in multiple dwellings in the city be established, and that uniform standards be established for all multiple dwellings in the city.
(1993 Code, § 550.02)

§ 111.187 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MULTIPLE DWELLING. A building with 2 or more living units in common ownership 1 or more of which is rented or available for rent, but excluding hotels, motels, hospitals, nursing homes, and homes for the aged.

OPERATE. To charge rent or other consideration for the use of a unit in a multiple dwelling.

UNIT. A room or group of rooms in a multiple dwelling used or intended to be used as a residence by an individual, family, or other group maintaining a common household.
(1993 Code, § 550.03)

§ 111.188 LICENSE REQUIRED.

No person may own or operate a multiple dwelling in the city without the owner of the multiple dwelling first having obtained a license in accordance with this subchapter.

(1993 Code, § 550.04) Penalty, see § 10.99

§ 111.189 APPLICATION.

(A) *Application by owner or purchaser.* Applications for licenses must be made in writing to the City Manager by the owner of the multiple dwelling on forms provided by the city. The purchaser of a multiple dwelling may apply as the “owner”; provided, however, that any license issued pursuant to an application by a purchaser shall be contingent upon closing the purchase and upon the applicant becoming the owner.

(B) *Content of application.* Applications will include, but not be limited to, the following information:

(1) Name and address of owner;

(2) Name and address of a person residing or having a business office in Hennepin or Ramsey County, Minnesota, and appointed by the owner as an agent for purposes of notices under this subchapter and for service of process upon the owner;

(3) Name and address of any managing operator or agent;

(4) Name and address of all partners if the applicant is a partnership;

(5) Name and address of all officers and members of the board of directors if the applicant is a corporation;

(6) Name and address of the contract for deed vendor if the multiple dwelling is owned under a contract for deed;

(7) Address of the multiple dwelling;

(8) Number and kind of units;

(9) Height of the multiple dwelling in stories; and

(10) Exterior finish of building.

(1993 Code, § 550.05)

§ 111.190 APPLICATION EXECUTION.

The application shall be subscribed and sworn to by the owner, and shall be signed by the owner if a natural person, an officer if a corporation, or a partner if a partnership. The owner's signature on the application will constitute a consent by the owner to be bound by notices sent to the person referred to in § 111.189(B)(2), and appointment of that person as the owner's agent for service of process. (1993 Code, § 550.06)

§ 111.191 ISSUANCE AND TERM.

Upon approval by the City Council, the City Manager will issue a license to the owner of the multiple dwelling. A license is personal to the owner of a specified multiple dwelling. No license may be transferred to a purchaser of a multiple dwelling or to any other person or entity. If a multiple dwelling is sold, the purchaser may not own or operate the multiple dwelling without first obtaining the license provided for in this subchapter. A license will be valid for 1 year from the date issued, and will terminate on a date 1 year after the date of issuance unless renewed in accordance with this subchapter. (1993 Code, § 550.07)

§ 111.192 RENEWAL.

Applications for renewal of a license for a multiple dwelling must be made in writing to the City Manager on forms provided by the city. Applications for renewal are to contain the same information as applications for licenses, but may be signed by an agent or manager on behalf of the owner if there has been no change in the information contained in the most recent application on file. (1993 Code, § 550.08)

§ 111.193 LICENSE FEES.

License fees for initial applications and renewals will be in the amounts set forth in Chapter 33. (1993 Code, § 550.09)

§ 111.194 LICENSE POSTING.

Every licensee of a multiple dwelling must post the current annual license issued by the City Manager in a frame with a glass covering in a conspicuous location in a public corridor, hallway, or lobby of the multiple dwelling for which it is issued. (1993 Code, § 550.10) Penalty, see § 10.99

§ 111.195 MAINTENANCE STANDARDS.

The owner of a multiple dwelling and any manager, operator, or owner's agent must maintain the multiple dwelling according to the standards set forth in this subchapter in addition to any other requirements of the laws of the State of Minnesota, the ordinances of the city, or any special permits issued by the city.

(1993 Code, § 550.11) Penalty, see § 10.99

§ 111.196 PLUMBING FACILITIES.

Each unit must have at least 1 toilet, 1 bathtub or shower stall, and 1 kitchen sink or wash basin. All plumbing facilities within a unit must be kept in good working condition and properly connected to a water supply and sewage system. All plumbing facilities serving more than 1 unit must be maintained in the same manner.

(1993 Code, § 550.12) Penalty, see § 10.99

§ 111.197 GARBAGE DISPOSAL.

Every multiple dwelling must have and maintain in sanitary condition adequate facilities to accommodate the rubbish, garbage, refuse, and recyclables needs of the occupants/tenants of the units. The facilities must be made of metal or other suitable material, which is rodent-proof, fire resistive, and waterproof. The owner of the multiple dwelling property is responsible for the removal of rubbish, garbage, and refuse no less frequently than once a week and for recyclables no less frequently than once a month.

(1993 Code, § 550.13) Penalty, see § 10.99

§ 111.198 LIGHT, VENTILATION, AND HEATING.

Every multiple dwelling must provide adequate ventilation in accordance with applicable building codes. Each room in a unit used for sleeping, eating, or cooking must have at least 1 electrical outlet. Every unit must have heating facilities capable of providing temperature control of not less than 68°F at a distance 18 inches above the floor level under ordinary winter conditions in each room used for sleeping, eating, or cooking. The owner and any agent operating a multiple dwelling is responsible for ensuring that the required light, ventilation, and heating facilities are properly installed, safely maintained, and in good working condition, and must provide and maintain in good working condition a lighting system which will provide 2 footcandles of light in every public hallway and stairway.

(1993 Code, § 550.14) Penalty, see § 10.99

§ 111.199 BUILDING CONDITION.

Each multiple dwelling is to be maintained so that the interior, foundations, exterior walls, and roofs are reasonably weathertight, watertight, and rodent proof, and so that the multiple dwelling is kept in a clean, safe, and sanitary condition.

(1993 Code, § 550.15) Penalty, see § 10.99

§ 111.200 YARDS, OPEN SPACE, AND PARKING.

Each multiple dwelling is to be maintained so that the yards, open spaces, and parking facilities are kept in a clean, safe, and sanitary condition. Except for paved areas existing on 10-15-1981 and hard surfacing subsequently approved by the city, yards and open spaces must be covered with grass or other suitable ground cover so as to avoid drainage and soil erosion problems. Adequate lighting facilities must be provided and operated between the hours of sunset and sunrise. Snow plowing or snow shoveling must be done regularly to maintain all sidewalks, driveways, and parking areas in a safe and passable condition.

(1993 Code, § 550.16) Penalty, see § 10.99

§ 111.201 SAFETY FROM FIRE.

All multiple dwellings must comply with applicable provisions of the Fire Prevention Code of the city. All fire lanes established by the city on the property must be kept open.

(1993 Code, § 550.17) Penalty, see § 10.99

§ 111.202 INSPECTIONS AND INVESTIGATIONS.

(A) *Manager and inspector authorization.* The City Manager and delegated inspectors are authorized to make inspections reasonably necessary for the enforcement of this subchapter.

(B) *Police and health authorization.* All police officers, sanitarians, or health officers of the city may inspect a multiple dwelling when requested to do so by the City Manager.

(C) *Authority to enter.* All persons authorized to inspect have the authority to enter, at reasonable times, any multiple dwelling licensed pursuant to this subchapter.

(D) *Notification of violations.* Persons inspecting a multiple dwelling must notify the licensee of all violations, if any, by written notice. The notice will direct compliance in not less than 15 days, unless extended by the City Manager for good cause.

(1993 Code, § 550.18)

HAULERS OF GARBAGE, REFUSE, RECYCLABLES, AND YARD WASTE**§ 111.215 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COLLECTION DAYS. Tuesday or Wednesday of each week.

COMMERCIAL ESTABLISHMENT. Any premises where a commercial or industrial enterprise of any kind is carried on, including restaurants and clubs, churches, and schools where food is served.

GARBAGE. Putrescible animal and vegetable waste resulting from the handling, preparation, cooking, or consumption of food.

HAULER. A collector or transporter of garbage, refuse, recyclable materials, or yard waste.

MULTIPLE DWELLING. Any building used for residential purposes consisting of more than 4 residential units with individual kitchen facilities for each in an R-4 District.

RECYCLABLES. Materials which may be recycled or reused through recycling processes, including metal and plastic beverage containers, glass, newsprint, and any other materials designated as recyclables by City Council resolution.

REFUSE. Ashes, nonrecyclable glass, crockery, cans, paper, boxes, rags, and similar nonputrescible materials.

RESIDENTIAL. Property zoned R-1, R-1A, R-2, or R-3.

RESIDENTIAL CONTAINER. Any container intended for the collection of waste or recycling materials that has a volume of 100 gallons or smaller container upon request of the resident.

SPECIAL PICK UP. Any collection of materials other than garbage, refuse, recyclables, or yard waste, including white goods, furniture, oversized materials and construction debris.

YARD WASTES. Organic materials such as leaves, grass clippings, branches, and other tree material, organic garden waste, or similar materials.
(1993 Code, § 555.01)

§ 111.216 LICENSING REQUIREMENTS.

(A) It is unlawful for any person to haul garbage, refuse, recyclables, or yard waste without the appropriate license issued by the city and payment of the license fee set forth in Chapter 33, unless the person is hauling from his or her own residence or commercial establishment.

(B) (1) The following categories of haulers must be separately licensed:

(a) Haulers collecting recyclables and any nonrecyclables from residential areas;

(b) Haulers collecting any nonrecyclables from commercial establishments and/or multiple dwellings; and

(c) Haulers of recyclables only.

(2) Each application for a license and each license issued must identify the type of license and the specific vehicles to be used by the licensed hauler.

(C) Before a license is issued, the applicant must file with the City Manager evidence that the applicant has in effect public liability insurance for the hauler's business and for all vehicles in at least the sum of \$500,000 for injury of 1 person, \$1,000,000 for the injury of 2 or more persons in the same accident, and \$100,000 for property damages.

(D) When the application is submitted, the applicant must file with the City Manager a schedule of proposed rates to be charged during the licensed period. Every licensee must provide 14-days' prior written notification to the city and the licensee's customers of any change in rates to be implemented during the licensed period.

(E) In addition to the other requirements of this subchapter, haulers servicing residences must comply with the following.

(1) Curbside recycling collection will be made available to all residential customers. At minimum, the service must include bi-weekly collection. Charges for service to customers who have no curbside recycling collection will be no less than the charges for services which include curbside recycling collection.

(2) Weekly collection of garbage, refuse, and yard waste will be provided on collection days.

(3) A minimum of 3 rate levels for regular service, priced on the basis of volume, will be provided.

(4) Each licensee must separately collect and dispose of yard waste for a minimum of 8 weeks in the spring, commencing on April 1, and 8 weeks in the fall, commencing on September 15. (1993 Code, § 555.02) (Am. Ord. 07-005, passed 11-13-2007)

§ 111.217 REQUIREMENTS AND RESTRICTIONS.

All licensees, and any other haulers in the city, must comply with all of the following requirements and restrictions.

(A) No hauler may operate in a residential district after 8:00 p.m. or before 7:00 a.m. of any day, and no hauler may operate in a residential district on Sunday or legal holidays.

(B) No licensed hauler may operate on residential streets on any day other than collection days except to collect a missed pick up or special pick up, or for collection on a day in substitution for a legal holiday which falls on a collection day.

(C) All haulers operating on a route in a residential district must comply with all weight limitations provided for in this code and under state law.

(D) Licensees must have watertight, packer-type vehicles, or in the case of recycling, appropriate container vehicles, in good condition and which prevent loss in transit of liquid or solid cargo. All vehicles must be kept clean and as free from offensive odors as possible, and may not be allowed to stand in any street longer than reasonably necessary to collect garbage, refuse, recyclables, or yard waste.

(E) Persons may haul garbage, refuse, recyclables, or yard waste from their own residence, multiple dwelling or commercial establishment if hauled in containers which are watertight on all sides and the bottom and have tight-fitting covers on top, and if hauled in vehicles with leakproof bodies which do not permit the loss of cargo.

(F) All garbage and refuse may be dumped or unloaded only at designated sanitary landfills or county-designated facilities.

(G) Recyclables must be disposed of at a recycling facility, an organized recyclable drive or through another licensed recyclable hauler.

(H) Yard wastes may be composted privately or may be disposed of at a composting facility or through a licensed recyclable hauler.

(I) Each vehicle for which a hauler's license is issued must exhibit the license in a prominent position on the vehicle.

(J) Upon request of the City Manager, a licensee will provide the city with a list of the names and addresses of the licensee's customers in the city.
(1993 Code, § 555.03)

§ 111.218 REPORTING OF RECYCLABLES AND YARD WASTE.

All licensees must report to the city, on forms provided by the city, the quantity of all recyclables and yard waste abated from landfills. The quantities must be reported by tonnage, except that yard waste may be reported in estimates of cubic yardage abated. Copies of weight tickets must also be submitted with the abatement quantities. Failure to certify accurate volumes in a timely manner may be cause for revocation of a hauling license.
(1993 Code, § 555.04)

§ 111.219 REPORTING OF PARTICIPATION RATES.

All licensees must report to the city, on forms provided by the city, the number of households participating in the curbside recycling program each week. Licensees must report the number of actual household accounts in the city, the number of households signed up to participate in the curbside program and the number of households actually recycling each week.
(1993 Code, § 555.05)

CONTRACTORS**§ 111.230 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CONTRACTOR. A person who performs for another person for a contract price, a fee or other consideration any work for which a building permit is required under the provisions of this code. (1993 Code, § 560.01)

§ 111.231 LICENSE REQUIRED.

No person may perform work in the city as a contractor involved in building construction, alterations, or remodeling or any other work for which a building permit is required by this code or the State Building Code, without a license issued pursuant to M.S. §§ 326.83 through 326.992, as they may be amended from time to time, or a license issued pursuant to the provisions of this subchapter for the type of work in question. If the contractor has a state license and no city license is required, the contractor will pay the city a \$5 surcharge prior to commencement of the work. (1993 Code, § 560.02) Penalty, see § 10.99

§ 111.232 TYPES OF WORK COVERED.

Licenses are required for, but not limited to, each of the below-named trades and construction work:

- (A) General contractors, including erection, alteration, or repair of buildings;
- (B) Masonry, cement work, cement block work, block laying, or brick work;
- (C) Roofing;
- (D) Plastering, stucco work, sheet rock taping;
- (E) Excavations, including excavations for footings, basements, and grading of lots;
- (F) Moving and wrecking of buildings;
- (G) Blacktopping of driveways, parking lots, and similar surfaces; and

(H) Sign erection, construction, and repairs, including billboards and electrical signs. (1993 Code, § 560.03)

§ 111.233 APPLICATIONS.

If the contractor does not have the required state license, applications for a city license under this subchapter must be submitted to the City Manager and include evidence of competency as may be required by the City Council.

(A) *Evidence of qualification.* Evidence of qualifications established before any agency of the state will be prima facie evidence of competency under this subchapter.

(B) *Proof of state license.* Whenever an agency of the state imposes licensing or registration requirements for any trade licensed under this subchapter, proof of satisfaction of all state requirements must be provided.

(1993 Code, § 560.04)

§ 111.234 BOND AND INSURANCE.

Upon approval of the license application and prior to the issuance of a city license, any applicant who does not have the required state license must file:

(A) A bond in the amount of \$2,000 conditioned upon compliance with all provisions of this code and the State of Minnesota Building Code regulating or governing construction work;

(B) A certificate of public liability insurance in the amount of \$100,000 per person and \$300,000 per accident for death or bodily injury, and \$50,000 for property damage; and

(C) Proof of worker's compensation insurance as required by law.

(1993 Code, § 560.05)

§ 111.235 RIGHT TO PERFORM.

A city license granted to a general contractor includes the right to perform all of the work included in a general contract. The license includes any or all persons performing the work which is classified and listed, providing that each person performing the work is in the regular employ of the general contractor and is qualified under state law and the provisions of this subchapter to perform the work. The general contractor is responsible for all of the work so performed. Subcontractors on any work are required to comply with this subchapter for that subcontractor's particular type of work.

(1993 Code, § 560.06)

§ 111.236 PROVISIONS.

Unlicensed employees under the supervision of a licensee may be engaged by a licensed contractor, but this provision will not be construed as exempting the employees from licensing or registration requirements imposed by state law.
(1993 Code, § 560.07)

SECONDHAND DEALERS**§ 111.250 FINDINGS AND PURPOSE STATEMENT.**

The City Council finds that secondhand dealers may knowingly or unknowingly be a conduit for the sale or purchase of stolen property; secondhand dealers should be regulated by requiring a license issued by the city; and licenses for should be denied, suspended, or revoked when the conduct of the business presents a threat to the peace, health, or safety of the people of the city. The purpose of this subchapter is to provide for the peace, health, and safety of citizens of the city by regulating secondhand dealers.
(1993 Code, § 565.01)

§ 111.251 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUCTION HOUSE DEALER. Any secondhand dealer where some, or all, of the secondhand merchandise is offered for sale for the highest bid or offer tendered. If the sale is conducted by means of an auction, the auctioneer must be properly licensed and bonded in accordance with applicable laws.

BILLABLE TRANSACTION. Every reportable transaction conducted by a secondhand dealer, regardless of the number of items received in that transaction.

BUSINESS MANAGER. A person(s) designated by the licensee to operate a business in the licensee's absence. A licensee must designate a manager to operate the licensed business if the licensee does not personally provide on-site supervisory services at the business at least 64 hours per month.

CITY. The City of St. Anthony, Minnesota.

CONSIGNMENT. A written agreement between a licensee and a seller that enables the licensee to take temporary possession of secondhand property, owned by the seller, for the purpose of offering it for sale to the public. An agreement shall state the terms under which the seller will be compensated, and the amount of that compensation.

DEALER. Any natural person, partnership, or corporation, either as principal or agent or employee thereof, licensed under this subchapter.

PRECIOUS GEM. Any gem that is valued for its character, rarity, beauty, or quality, including diamonds, rubies, emeralds, sapphires, or pearls, or any other precious gems or stones, whether as a separate item or in combination as a piece of jewelry or other crafted item.

PRECIOUS METALS. Gold, silver, platinum, and sterling silver, whether as a separate item or in combination as a piece of jewelry or other crafted item, except items plated with precious metal(s) and the plating equals less than 1% of the items total weight.

RECEIVE. To purchase, accept for sale on consignment, broker, or receive in trade for an item of equal or lesser value, any tangible personal property previously owned, used, rented, or leased.

RECORDABLE TRANSACTION. Every transaction conducted by a secondhand dealer in which merchandise defined in § 111.262 is received, offered for sale, or intended for sale, whether inside or outside the City of St. Anthony.

REPORTABLE TRANSACTION. Every transaction conducted by a secondhand dealer, inside the City of St. Anthony, in which merchandise defined in § 111.263 is received, and for which a daily report to the Police Department is required.

SECONDHAND DEALER. Any natural person, partnership or corporation, either as principal or agent or employee thereof, whose regular business includes selling or receiving tangible personal properties, excluding motor vehicles, previously owned, used, rented, or leased. The term **SECONDHAND DEALER** shall include auction house dealers.

UNIQUE IDENTIFIER. A serial number, identification number, model number, owner applied identifier or engraving, “operation ID” number or symbol, or other unique marking.
(1993 Code, § 565.02)

§ 111.252 LICENSE REQUIRED.

No person shall engage in the business of secondhand dealer without a secondhand dealer license. No secondhand dealer license may be transferred to a different location or a different person. Licenses shall be conspicuously displayed. Issuance of a license under this subchapter shall not relieve the dealer from obtaining any other licenses required to conduct business at the same or any other locations. Persons engaged in the business of a secondhand dealer on the effective date of this subchapter must receive a license within 60 days or cease doing business.

(1993 Code, § 565.03) Penalty, see § 10.99

§ 111.253 EXCEPTIONS.

The following transactions shall not require a license under this subchapter:

(A) The sale of secondhand goods at events commonly known as “garage sales,” “yard sales,” or “estate sales” where all of the following are present:

(1) The sale is held on property occupied as a dwelling by the seller or owned, rented, or leased by a charitable or political organization;

(2) The occupant owns the items offered for sale and that none of the items offered for sale shall have been purchased for resale or received on consignment for purpose of resale;

(3) The owner of the property conducts the sale and receives all proceeds from the sale;

(4) No sale exceeds a period of 72 consecutive hours; and

(5) No more than 4 sales are held in any 12-month period at any residential dwelling.

(B) The sale or receipt of secondhand books, magazines, post cards, postage stamps, philatelic material, video recordings (including digital video discs and video tapes), and audio recordings (including compact discs, long-play albums and cassette tapes);

(C) The sale or receipt of used merchandise donated to recognized nonprofit organizations and for which no compensation is paid; and

(D) Transactions conducted by a pawnbroker licensed under §§ 111.285 through 111.302. (1993 Code, § 565.04)

§ 111.254 APPLICATION CONTENT.

In addition to any information that may be required by the county pursuant to M.S. § 471.924, as it may be amended from time to time, every application for a license under this subchapter shall be made on a form supplied by the city and shall contain the following information.

(A) If the applicant is a natural person:

(1) The name, place, and date of birth, street resident address, and telephone number of the applicant;

(2) Whether the applicant is a citizen of the United States or a resident alien;

(3) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used;

(4) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.01, as it may be amended from time to time;

(5) The street addresses at which the applicant has lived during the preceding 5 years;

(6) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding 5 years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding 5 years;

(7) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had;

(8) The physical description of the applicant; and

(9) If the applicant is married:

(a) The name, place, and date of birth, and street address of the applicant's current spouse;

(b) The type, name, and location of every business or occupation in which the applicant's current spouse has been engaged during the preceding 5 years;

(c) The names and addresses of the employers or partners of the applicant's current spouse for the preceding 5 years; and

(d) Whether the applicant's current spouse has ever been convicted of any felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had.

(B) If the applicant is a partnership:

(1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in division (A) above;

(2) The name(s) of managing partner(s) and the interest of each partner in the secondhand goods business; and

(3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, as it may be amended from time to time, a certified copy of the certificate shall be attached to the application.

(C) If the applicant is a corporation or other organization:

(1) The name of the corporation or business form, and if incorporated, the state of incorporation;

(2) A true copy of the certificate of incorporation, articles of incorporation or association agreement, and bylaws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, as it may be amended from time to time, shall be attached;

(3) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in division (A) above; and

(4) A list of all persons who control or own an interest in excess of 5% in the organization or business form or who are officers of the corporation or business form and all information concerning the persons required in division (A) above.

(D) For all applicants:

(1) Whether the applicant holds a current secondhand dealers or pawnbrokers license from any other governmental unit and whether the applicant is licensed under M.S. § 471.924, as it may be amended from time to time;

(2) Whether the applicant has previously been denied, or had revoked or suspended, a secondhand dealers license from this or any other governmental unit;

(3) The names, street resident addresses, business addresses and telephone numbers of 3 individuals who are of good moral character and who are not related to the applicant or not holding any ownership in the premises or business, who may be referred to as to the applicant's and or manager's character;

(4) The location of the business premises;

(5) The legal description of the premises to be licensed;

(6) The location at which the applicant's business records are maintained;

(7) If the applicant does not own the licensed premises, a true and complete copy of the executed lease;

(8) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;

(9) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the City Building/Inspections Department, no plans need be submitted with application;

(10) The applicants hours of operation, on-site management, and parking facilities;

(11) An executed data practices advisory and consent form authorizing the release of criminal history information; and

(12) Any other information as the City Council may require.

(E) When a dealer places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the dealer must complete and submit the appropriate application prior to the effective date or the change. The manager shall be subject to the investigation required by this subchapter, and to the investigation fee required by Chapter 33, which shall be paid in advance. The designation of a new manager shall not cause the license to become invalid before a decision is rendered, provided proper notice and application are made by the applicant. A proposed new manager shall be referred to as the interim manager. In the event an interim manager is rejected, the licensee shall designate another interim manager and make the required application within 15 days of the decision. If a proposed manager is rejected, the decision may be appealed to the City Council by filing a written notice of appeal with the City Manager within 10 days after being notified of the rejection.

(1993 Code, § 565.05)

§ 111.255 APPLICATION EXECUTION.

All applications for a license under this subchapter shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by the person; if that of a corporation, by an officer thereof; if that of a partnership, by 1 of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof. Any falsification on a license application shall result in the denial of a license.

(1993 Code, § 565.06)

§ 111.256 APPLICATION VERIFICATION.

All applications will require criminal history data as described in Section 111.002 subsection C. Within 30 days after receipt of the completed application and the criminal history background has been completed, the Police Department will make a written report and recommendation to the City Council as to the issuance or non-issuance of the license.

(1993 Code, § 565.07) (Am. Ord. 2009-008, passed 6-23-2009; Am. Ord. 2012-08, passed 10-23-2012)

of an applicant's character and verification of the facts as set forth in the application. If additional investigation is necessary, the applicant shall pay the city the cost of the additional investigation. The license shall not be issued until any additional investigation costs are paid.

(1993 Code, § 565.07) (Am. Ord. 2009-008, passed 6-23-2009)

§ 111.257 APPLICATION CONSIDERATION.

(A) The City Council shall conduct a hearing on the license application within 30 days following receipt of the Police Department's report and recommendation regarding the application. At least 10 days in advance of the City Council hearing on an application, the city shall cause notice of the hearing to be published in the official newspaper of the city, setting forth the day, time, and place of the hearing; the name of the applicant; the premises where the business is to be conducted; and the type of license which is sought. The hearing shall also be preceded by 10 days' mailed notice to all owners of property located within 500 feet of the boundaries of the property where the business is to be conducted. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. Additional hearings on the application may be held if the City Council deems additional hearings necessary. After the hearing or hearings on the application, the City Council may, in its discretion, grant or deny the application within 30 days after the close of the hearing.

(B) If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.

(1993 Code, § 565.08)

§ 111.258 RENEWAL APPLICATION.

(A) All licenses issued under this subchapter shall be effective from the date of approval by the City Council. All licenses expire at midnight on December 31 of each year. An application for the renewal of an existing license shall be made prior to the expiration date of the license and shall be made in the form as the city requires. The application shall state that the information in the prior application remains true and correct, except as otherwise indicated. If, in the judgment of the City Council, good and sufficient cause is shown by the applicant for the applicant's failure to submit a renewal application before the expiration of the existing license, the City Council may, if the other provisions of this subchapter are complied with, grant the renewal application.

(B) A license under this subchapter may not be renewed:

(1) If the City Council determines that the licensee has failed to comply with the provisions of this subchapter in preceding license years;

(2) If the licensee or, if the licensee does not manage the establishment, the manager of the licensed premises is not a resident of Minnesota on the date the renewal takes effect;

(3) If in the case of a partnership, the managing partner or other person who manages the establishment is not a resident of Minnesota on the date the renewal takes effect; or

(4) If in the case of a corporation, or other organization, the manager, a proprietor, or agent in charge of the establishment is not a resident of Minnesota on the date the renewal takes effect.

(C) The time for establishing residence in Minnesota may for good cause be extended by the City Council.

(1993 Code, § 565.09)

§ 111.259 FEES.

(A) *Investigation fee.* An applicant for any license under this subchapter shall pay the city in advance at the time an original application is submitted, a nonrefundable investigation fee to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this subchapter. The investigation fee is set forth in Chapter 33.

(B) *License fee.*

(1) The annual license fee is set forth in Chapter 33. The license fee shall be paid annually, to be determined pro-rata from the date of issuance of the license.

(2) The annual license fee shall be paid in full before the license is effective.

(3) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be 90 days after approval of the license by the City Council or upon the date the building is ready for occupancy, whichever is sooner.

(4) When a new license application is submitted as a result of incorporation by an existing licensee and the ownership, control, and interest in the license are unchanged, no additional fee shall be required.

(C) *Billable transaction fees.* Licensees shall pay a monthly transaction fee on all billable transactions. The fee shall be due and payable within 30 days. Failure to timely pay the billable transaction fee shall constitute a violation of this subchapter. The billable transaction license fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the City Council, and shall be reviewed and adjusted, if necessary, every 12 months. Dealers shall be notified in writing 30 days before any adjustment is implemented. The initial billable transaction fee for billable transaction shall be \$1.75 per electronic transaction, regardless of the number of items in that transaction, and \$2.75 per manual transaction.

(1993 Code, § 565.10)

§ 111.260 PERSONS INELIGIBLE FOR A LICENSE.

(A) No license under this subchapter shall be issued to an applicant who is a natural person if:

- (1) The applicant is a minor at the time the application is filed;
- (2) The applicant has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker as prescribed by M.S. § 364.03, Subd. 3, as it may be amended from time to time;
- (3) The proposed use does not comply with Chapter 152;
- (4) The proposed use does not comply with any health, building, building maintenance, or other provisions of the city code or state law;
- (5) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter;
- (6) The applicant has failed to comply with 1 or more provisions of this subchapter;
- (7) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;
- (8) The applicant has committed fraud, misrepresentation, or bribery in securing a license;
- (9) The applicant has committed fraud, misrepresentation, or made false statements in the application and investigation for the applicant's business;
- (10) Business practices, or conduct, deemed by the city to be contrary to the best interests, or safety, of the public; or
- (11) The applicant has violated within the preceding 5 years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(B) No license under this subchapter shall be issued to an applicant that is a partnership if:

- (1) Any general partner or managing partner of the applicant is a minor at the time the application is filed;

(2) Any general partner or managing partner of the applicant has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker as prescribed by M.S. § 364.03, Subd. 3, as it may be amended from time to time;

(3) The proposed use does not comply with Chapter 152;

(4) The proposed use does not comply with any health, building, building maintenance, or other provisions of the city code or state law;

(5) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter;

(6) The applicant has failed to comply with 1 or more provisions of this subchapter;

(7) Any general partner or managing partner of the applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;

(8) Any general partner or managing partner of the applicant has committed fraud, misrepresentation, or bribery in securing a license;

(9) Any general partner or managing partner of the applicant has committed fraud, misrepresentation, or made false statements in the application and investigation for the applicant's business;

(10) Business practices, or conduct, deemed by the city to be contrary to the best interests, or safety, of the public; or

(11) Any general partner or managing partner of the applicant has violated within the preceding 5 years, of any law relating to theft, damage, or trespass to property, sale of a controlled substance, or operation of a business.

(C) No license under this subchapter shall be issued to an applicant that is a corporation or other organization if:

(1) Any manager, proprietor, or agent in charge of the business to be licensed is a minor at the time the application is filed;

(2) Any manager, proprietor, or agent in charge of the business has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker as prescribed by M.S. § 364.03, Subd. 3, as it may be amended from time to time;

(3) The proposed use does not comply with Chapter 152;

(4) The proposed use does not comply with any health, building, building maintenance, or other provisions of the city code or state law;

(5) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter;

(6) The applicant has failed to comply with 1 or more provisions of this subchapter;

(7) Any manager, proprietor, or agent in charge of the business is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;

(8) Any manager, proprietor, or agent in charge of the business has committed fraud, misrepresentation, or bribery in securing a license;

(9) Any manager, proprietor, or agent in charge of the business has committed fraud, misrepresentation, or made false statements in the application and investigation for the applicant's business;

(10) Business practices, or conduct, deemed by the city to be contrary to the best interests, or safety, of the public; or

(11) Any manager, proprietor, or agent in charge of the business has violated within the preceding 5 years, of any law relating to theft, damage, or trespass to property, sale of a controlled substance, or operation of a business.

(1993 Code, § 565.11)

§ 111.261 BOND REQUIRED.

At the time of filing an application for a license, the applicant shall file a bond in the amount of \$5,000 with the city. The bond, with a duly licensed surety company as surety thereon, must be approved as to form by the City Attorney. The bond must be conditioned that the licensee shall observe all ordinances of the city and all laws in regulation to the business of secondhand dealers, and that the licensee will account for and deliver to any person legally entitled thereto any articles which may have come into the possession of the licensee as a secondhand dealer, or in lieu thereof the licensee shall pay the person or persons the reasonable value thereof. The bond shall contain a provision that it may not be cancelled without 30-days advance written notice to the city.

(1993 Code, § 565.12)

§ 111.262 RECORDS REQUIRED.

(A) *Exempt transactions.* The following items, when received by a dealer, are exempt from recording and reporting requirements in this subchapter, regardless of the purchase price paid by the dealer, asking price if consigned or brokered, or value attributed to it if accepted in trade:

(1) The receipt of new or used merchandise from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of the merchandise, provided the secondhand dealer must maintain a record of all the transactions which describes each item, and must identify the items in a manner which relates them to that transaction record. Any identification code used by the dealer must be provided to the Chief of Police, or the Chief's designee upon request;

(2) The sale or receipt of secondhand household kitchen and laundry appliances;

(3) The sale or receipt of secondhand furniture, excluding audio, video, and other electronic devices;

(4) The sale or receipt of secondhand cookware, glassware, and eating utensils that do not contain precious metals;

(5) The sale or receipt of secondhand clothing and shoes; and

(6) The sale or receipt of secondhand infant's, toddler's or children's clothing, appliances, furniture, or safety devices.

(B) *Recordable transactions.* Every dealer, at the time of receipt of any item which has a unique identifier, or is or contains precious metals or gems, regardless of the purchase price, asking price if consigned or brokered, or value attributed to it if accepted in trade, or any other item for which the dealer paid \$15 or more, by check or other consideration, or which the dealer intends to offer for sale, or broker, for \$30 or more, and which is not exempted in division (A) above shall immediately and legibly record, using the English language, in ink or other indelible medium in a book, on forms, or in a computerized record approved by the Chief of Police, or the Chief's designee, the following information:

(1) A complete and accurate description of each item, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;

(2) The purchase price, asking price if consigned, or value attributed to item if accepted in trade, for each item received;

(3) Date and time the dealer received the item of property;

(4) Full name, residence address, residence telephone number, date of birth, and accurate description of the person from whom the item of property was received, including: sex, height, weight, race, color of eyes and color of hair;

(5) The identification number and state of issue from any of the following forms of identification presented by the seller:

(a) Current valid Minnesota driver's license;

(b) Current valid Minnesota identification card; and/or

(c) Current valid photo driver's license or photo identification card issued by another state or province of Canada.

(6) The signature of the person identified in the transaction.

(C) *Inspection of records.* The records must at all reasonable times be open to inspection by the Police Department or Department of Licenses and Consumer Services. Records of all transactions shall be retained for at least 3 years from the date of transaction.
(1993 Code, § 565.13)

§ 111.263 DAILY REPORTS TO POLICE.

(A) *Reportable transactions.* Except for items received through consignment, or for which payment in full is made with a credit or voucher redeemable for merchandise from the dealer, every dealer shall report daily, to the Police Department, any recordable transaction in which 1 or more of the following items is received, regardless of the purchase price, asking price if consigned or brokered, or value attributed to it if accepted in trade:

(1) Any item with a unique identifier;

(2) Items containing precious metals;

(3) Items containing precious gems;

(4) Any of the following items for which the dealer paid \$25 or more, in cash or other consideration, or which the dealer intends to offer for sale, or broker, for \$50 or more:

(a) Electronic audio equipment;

(b) Electronic video equipment;

(c) Musical instruments;

- (d) Photographic and optical equipment;
- (e) Electronic office equipment;
- (f) Computers, monitors, printers, scanners, and computer hardware;
- (g) Cellular telephones and pagers;
- (h) Outboard motors, inboard drives, and powered golf carts;
- (i) Electric and gas powered yard or garden equipment and tools;
- (j) Electric, pneumatic, or hydraulic powered construction or mechanic's equipment or tools; and/or
- (k) Other items that are commonly considered "collectibles."

(5) Sporting equipment for which the secondhand dealer paid \$100 or more, in cash or other consideration, or which the secondhand dealer intends to offer for sale, or broker, for \$200 or more;

(6) Architectural elements, lighting fixtures or lamps, limited to those which the secondhand dealer paid \$150 or more, in cash or other consideration, or which the secondhand dealer intends to offer for sale, or broker, for \$300 or more; and/or

(7) Artist signed or artist attributed works of art, other than architectural elements, lighting fixtures or lamps, limited to those for which the secondhand dealer paid \$250 or more, in cash or other consideration, or which the secondhand dealer intends to offer for sale, or broker, for \$500 or more.

(B) *Method.* Dealers must provide to the Police Department the information required in § 111.262(B), in writing, on forms approved by the Chief of Police, or the chief's designee, for all reportable transactions. The dealer must display a sign of sufficient size, and in a conspicuous place in the premises, so as to inform all patrons that transactions are reported to the Police Department daily. Dealers must submit every reportable transaction to the Police Department daily in the following manner.

(1) Dealers must provide to the Police Department the information required in § 111.262(B), for all reportable transactions, by transferring it from their computer to the Police Department via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the city using a dial-callback protocol or other procedures that address security concerns of the dealers and the city.

(2) If the dealer who has consistently reported via modem, is unable to successfully transfer the required reports by modem, the dealer must provide the Police Department printed copies of all reportable transactions for that date by 12:00 p.m. the next business day.

(1993 Code, § 565.14)

§ 111.264 RECEIPT REQUIRED.

Every dealer must provide a receipt, upon request, to any person from whom they received goods for which a record was required in § 111.262, and must maintain a duplicate of that receipt for 3 years. The receipt must include sufficient information to enable the Police Department to identify the transaction, and every item related to it, in the dealer's records.

(1993 Code, § 565.15)

§ 111.265 PAYMENT BY CHECK ONLY.

When a dealer buys or otherwise receives an item, payment shall be made by check only, made payable to a named payee who is the actual and identified seller.

(1993 Code, § 565.16)

§ 111.266 HOLDING PERIOD.

Any item received by a dealer, for which a report to the police is required in § 111.263, shall not be sold or otherwise transferred for 30 days after the date the Police Department receives the report, except as provided in § 111.271. Items may not be altered, modified, or changed in any way during the holding period.

(1993 Code, § 565.17)

§ 111.267 POLICE ORDER TO HOLD PROPERTY.

(A) *Investigative hold.* Whenever a law enforcement official from any agency notifies a dealer not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to division (B) below, whichever comes first.

(B) *Order to hold.* Whenever the Chief of Police or the chief's designee notifies a dealer not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Chief of Police or the chief's designee. The order to hold shall expire 90 days from the date it is placed unless the Chief of Police or the chief's designee determines the hold is still necessary and notifies the dealer in writing.

(C) *Order to confiscate.*

(1) If an item is identified as stolen or evidence in a criminal case, the Chief of Police or the chief's designee may:

(a) Physically confiscate and remove it from the dealer's premises, pursuant to a written order from the Chief of Police or the chief's designee; or

(b) Place the item on hold or extend the hold as provided in division (B) above, and leave it in the dealer's premises.

(2) When an item is confiscated, the person doing so shall provide identification upon request of the dealer, and shall provide the dealer the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the Chief of Police or the chief's designee shall so notify the dealer.

(1993 Code, § 565.18)

§ 111.268 INSPECTION OF FORMS.

The licensee must allow the Chief of Police or the chief's designee to enter the premises where the licensed business is located or business records are maintained, including all off-site storage facilities as authorized in § 111.271, during normal business hours, except in an emergency, for the purpose of inspecting the premises and inspecting the items, ware and merchandise and records therein to verify compliance with this subchapter or other applicable laws.

(1993 Code, § 565.19)

§ 111.269 LABEL REQUIRED.

Dealers must attach a label to every item, for which a report to the Police Department is required in § 111.263, at the time it is received in inventory. Permanently recorded on this label must be the number or name that identifies the transaction in the dealer's records, the name of the item, and the date the item can be sold. Labels shall not be re-used.

(1993 Code, § 565.20)

§ 111.270 PROHIBITED ACTS.

The following acts are prohibited under this subchapter:

(A) No person under the age of 18 years may sell or consign, or attempt to sell or consign, any goods with any dealer, nor may any dealer receive any goods from a person under the age of 18 years;

(B) No dealer may receive any goods from a person of unsound mind or an intoxicated person;

(C) No dealer may receive any goods unless the seller presents 1 of the following forms of identification:

(1) Current valid Minnesota driver's license;

(2) Current valid Minnesota identification card; or

(3) Current valid photo driver's license or photo identification card issued by another state or province of Canada.

(D) No dealer may receive any item of property that possesses an altered or obliterated serial number or "operation identification" number, or any item of property that has had its serial number removed.

(1993 Code, § 565.21) Penalty, see § 10.99

§ 111.271 GENERAL LICENSE RESTRICTIONS.

(A) *Firearms and weapons.* A secondhand dealer shall not receive, display, or sell any merchandise consisting of a revolver, pistol, shotgun, automatic rifle, semiautomatic military-style assault weapon (as defined by M.S. § 624.712, as it may be amended from time to time), switchblade knife, or other similar weapons or firearms.

(B) *Responsibility of licensee.* A licensee under this subchapter shall be responsible for the conduct of the business being operated and shall maintain conditions of order. The conduct of agents or employees of a licensee, engaged in performance of duties for the licensee, shall be deemed the conduct of the licensee.

(C) *Gambling.* No licensee under this subchapter may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under M.S. Chapter 349, as it may be amended from time to time, may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S. Chapter 349A, as it may be amended from time to time.

(D) *Penalty for property owner.* It is unlawful for any person who owns or controls real property to knowingly permit it to be used for the sale of secondhand goods without a license.

(E) *Premises.* All property held for sale must be stored in an enclosed facility and may not be stored outside of the premises. The Chief of Police or the chief's designee may, however, upon written request, approve an off-site locked and secured storage facility. The dealer shall permit immediate inspection of the facility by the Chief of Police or the Chief's designee at any time during business hours. All provisions of this subchapter regarding record keeping and reporting apply to the facility and its contents. All property shall be stored in compliance with zoning and/or fire regulations and in an orderly manner. The premises shall also be equipped with an operational security alarm.

(1993 Code, § 565.22)

§ 111.272 SUSPENSION OR REVOCATION OF LICENSE.

(A) The City Council may suspend or revoke a license issued under this subchapter upon a finding of a violation of:

- (1) Any of the provisions of this subchapter;
- (2) Any state statute regulating secondhand dealers;
- (3) Any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time;
- (4) Fraud, misrepresentation, or bribery in renewing a license;
- (5) Business practices, or conduct, deemed by the city to be contrary to the best interests, or safety, of the public; or
- (6) Any law relating to theft, damage, or trespass to property, sale of a controlled substance, or operation of a business.

(B) A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a public hearing. The written notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the secondhand dealer. The notice may be served upon the secondhand dealer personally or by United States mail addressed to the most recent address of the business in the license application.
(1993 Code, § 565.23)

§ 111.273 VIOLATIONS.

Violation of any provision of this subchapter shall be a misdemeanor.
(1993 Code, § 565.24) Penalty, see § 10.99

PAWNBROKERS**§ 111.285 FINDINGS AND PURPOSE STATEMENT.**

(A) *Findings.* The City Council makes the following findings regarding the need to regulate pawnbrokers operating with the city:

- (1) Pawnbrokers provide an opportunity for the commission of crime and the concealment of crime, because pawnshops have the ability to receive and transfer stolen property easily and quickly; and

(2) The pawn industry has outgrown the city's current ability to effectively and efficiently identify criminal activity related to pawnbrokers and pawn businesses. The adoption of an Automated Pawn System (APS) will allow law enforcement officials to timely collect and share pawn transaction information more efficiently; and

(3) Consumer protection regulation of pawn transactions is warranted in light of the potential for abuse.

(B) *Purpose statement.* The City Council enacts this subchapter of the city code in order to further the following objectives:

(1) The prevention of pawnshops from being used as facilities for the commission of crime;

(2) The identification of criminal activities through timely collection and sharing of pawn transaction information;

(3) The promulgation of consumer protection standards to be adhered to by the pawn industry; and

(4) The protection of the public health, safety, and general welfare of the citizens of the city. (1993 Code, § 566.01)

§ 111.286 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCEPTABLE IDENTIFICATION. Acceptable forms of identification are a current valid Minnesota driver's license, a current valid Minnesota identification card, or a current valid photo driver's license or identification card issued by another state or province of Canada.

BILLABLE TRANSACTIONS. Every reportable transaction conducted by a pawnbroker, except renewals, redemptions, extensions, or confiscations of items previously reported and continuously in the licensee's possession is a billable transaction. Any fee for billable transactions shall reflect the cost of processing transactions and other related regulatory expenses as determined by the City Council pursuant to § 111.293.

CITY. The City of St. Anthony, Minnesota.

CONSIGNMENT. A written agreement between a licensee and a seller that enables the licensee to take temporary possession of secondhand property, owned by the seller, for the purpose of offering it for sale to the public. An agreement shall state the terms under which the seller will be compensated, and the amount of that compensation.

LICENSEE. The person, corporation, partnership, or association to whom a license is issued under this subchapter, including any agents or employees of the person, corporation, partnership, or association.

MINOR. Any natural person under the age of 18 years.

PAWNBROKER. Any natural person, partnership, or corporation, either as principal or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing, on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented, or leased, or selling it on consignment, the provisions of this subchapter shall be applicable. Any bank, savings and loan association, or credit union shall not be deemed a **PAWNBROKER** for purposes of this subchapter.

PAWNSHOP. Any business or establishment used or operated by a pawnbroker.

PERSON. Any 1 or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

REPORTABLE TRANSACTION. Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, redeemed, or voided, or for which a unique transaction number or identifier is generated by their point of sale software, or when an item is confiscated by a law enforcement agency, is a **REPORTABLE TRANSACTION**, except:

(1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of the merchandise, provided the pawnbroker must maintain a record of the purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record; and/or

(2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

UNIQUE IDENTIFIER. A serial number, identification number, model number, owner applied identifier or engraving, "Operation Identification" number or symbol, or other unique marking. (1993 Code, § 566.02)

§ 111.287 LICENSE REQUIRED.

No person shall exercise, carry-on, or be engaged in the trade or business of pawnbroker within the city unless the person is currently licensed under this subchapter.

(1993 Code, § 566.03) Penalty, see § 10.99

§ 111.288 APPLICATION CONTENT.

In addition to any information that may be required by the county pursuant to M.S. § 471.924, as it may be amended from time to time, every application for a license under this subchapter shall be made on a form supplied by the city and shall contain the following information:

(A) If the applicant is a natural person:

(1) The name, place, and date of birth, street resident address, and telephone number of the applicant;

(2) Whether the applicant is a citizen of the United States or a resident alien;

(3) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used;

(4) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.01, as it may be amended from time to time;

(5) The street addresses at which the applicant has lived during the preceding 5 years;

(6) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding 5 years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding 5 years;

(7) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had;

(8) The physical description of the applicant; and

(9) If the applicant is married:

(a) The name, place, and date of birth, and street address of the applicant's current spouse;

(b) The type, name, and location of every business or occupation in which the applicant's current spouse has been engaged during the preceding 5 years;

(c) The names and addresses of the employers or partners of the applicant's current spouse for the preceding 5 years; and

(d) Whether the applicant's current spouse has ever been convicted of any felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had.

(B) If the applicant is a partnership:

(1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in division (A) above;

(2) The name(s) of managing partner(s) and the interest of each partner in the pawnbroker business; and

(3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, as it may be amended from time to time, a certified copy of the certificate shall be attached to the application.

(C) If the applicant is a corporation or other organization:

(1) The name of the corporation or business form, and if incorporated, the state of incorporation;

(2) A true copy of the certificate of incorporation, articles of incorporation, or association agreement, and bylaws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by M.S. § 303.06, as it may be amended from time to time, shall be attached;

(3) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in division (A) above; and

(4) A list of all persons who control or own an interest in excess of 5% in the organization or business form or who are officers of the corporation or business form and all information concerning the persons required in division (A) above.

(D) For all applicants:

(1) Whether the applicant holds a current pawnbroker license from any other governmental unit and whether the applicant is licensed under M.S. § 471.924, as it may be amended from time to time;

(2) Whether the applicant has previously been denied or had revoked or suspended, a pawnbroker license from this or any other governmental unit;

(3) The names, street resident addresses, business addresses and telephone numbers of 3 individuals who are of good moral character and who are not related to the applicant or not holding any ownership in the premises or business, who may be referred to as to the applicant's and or manager's character;

(4) The location of the business premises;

(5) The legal description of the premises to be licensed;

(6) The location at which the applicant's business records are maintained;

(7) If the applicant does not own the licensed premises, a true and complete copy of the executed lease;

(8) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;

(9) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the City Building/Inspections Department, no plans need be submitted with the application;

(10) The applicant's hours of operation, on-site management, and parking facilities;

(11) An executed data practices advisory and consent form authorizing the release of criminal history information; and

(12) Any other information as the City Council may require.

(E) When a dealer places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the dealer must complete and submit the appropriate application prior to the effective date or the change. The manager shall be subject to the investigation required by this subchapter, and to the investigation fee required by Chapter 33, which shall be paid in advance. The designation of a new manager shall not cause the license to become invalid before a decision is rendered, provided proper notice and application are made by the applicant. A proposed new manager shall be referred to as the interim manager. In the event an interim manager is rejected, the licensee shall designate another interim manager and make the required application within 15 days of the decision. If a proposed manager is rejected, the decision may be appealed to the City Council by filing a written notice of appeal with the City Manager within 10 days after being notified of the rejection.
(1993 Code, § 566.04)

§ 111.289 APPLICATION EXECUTION.

All applications for a license under this subchapter shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by the person; if that of a corporation, by an officer thereof; if that of a partnership, by 1 of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof. Any falsification on a license application shall result in the denial of a license.

(1993 Code, § 566.05)

§ 111.290 APPLICATION VERIFICATION.

All applications shall be referred to the Police Department for verification and investigation of the facts set forth in the application as described in Section 111.002 subsection C. Within 60 days after receipt of a complete application, the Police Department shall make a written report and recommendation to the City Council as to issuance or non-issuance of the license. (1993 Code, § 566.06) (Am. Ord. 2009-008, passed 6-23-2009) (Am. Ord. 2012-08, passed 10-23-2012)

§ 111.291 APPLICATION CONSIDERATION.

(A) The City Council shall conduct a hearing on the license application within 30 days following receipt of the Police Department's report and recommendation regarding the application. At least 10 days in advance of the City Council hearing on an application, the city shall cause notice of the hearing to be published in the official newspaper of the city, setting forth the day, time, and place of the hearing; the name of the applicant; the premises where the business is to be conducted; and the type of license which is sought. The hearing shall also be preceded by 10-days mailed notice to all owners of property located within 500 feet of the boundaries of the property where the business is to be conducted. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. Additional hearings on the application may be held if the City Council deems additional hearings necessary. After the hearing or hearings on the application, the City Council may, in its discretion, grant or deny the application within 30 days after the close of the hearing.

(B) If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.

(1993 Code, § 566.07)

§ 111.292 RENEWAL APPLICATION.

(A) All licenses issued under this subchapter shall be effective from the date of approval by the City Council. All licenses expire at midnight on December 31 of each year. An application for the renewal of an existing license shall be made prior to the expiration date of the license and shall be made in the form as the city requires. The application shall state that the information in the prior application remains true and correct, except as otherwise indicated. If, in the judgment of the City Council, good and sufficient cause is shown by the applicant for the applicant's failure to submit a renewal application before the expiration of the existing license, the City Council may, if the other provisions of this subchapter are complied with, grant the renewal application.

(B) A license under this subchapter may not be renewed:

(1) If the City Council determines that the licensee has failed to comply with the provisions of this subchapter in preceding license years;

(2) If the licensee or, if the licensee does not manage the establishment, the manager of the licensed premises is not a resident of Minnesota on the date the renewal takes effect;

(3) If in the case of a partnership, the managing partner or other person who manages the establishment is not a resident of Minnesota on the date the renewal takes effect; or

(4) If in the case of a corporation, or other organization, the manager, a proprietor, or agent in charge of the establishment is not a resident of Minnesota on the date the renewal takes effect.

(C) The time for establishing residence in Minnesota may for good cause be extended by the City Council.

(1993 Code, § 566.08)

§ 111.293 FEES.

(A) *Investigation fee.* An applicant for any license under this subchapter shall pay the city in advance at the time an original application is submitted, a nonrefundable investigation fee to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this subchapter. The investigation fee is set forth in Chapter 33.

(B) *License fee.*

(1) The annual license fee is set forth in Chapter 33. The license fee shall be paid annually, to be determined pro-rata from the date of issuance of the license.

(2) The annual license fee shall be paid in full before the license is effective.

(3) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be 90 days after approval of the license by the City Council or upon the date the building is ready for occupancy, whichever is sooner.

(4) When a new license application is submitted as a result of incorporation by an existing licensee and the ownership, control, and interest in the license are unchanged, no additional fee shall be required.

(C) *Billable transaction fees.* Licensees shall pay a monthly transaction fee on all billable transactions. The fee shall be due and payable within 30 days. Failure to timely pay the billable transaction fee shall constitute a violation of this subchapter. The billable transaction license fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the City Council, and shall be reviewed and adjusted, if necessary, every 6 months. Licensees shall be notified in writing 30 days before any adjustment is implemented. The initial billable transaction fee for billable transaction shall be \$1.75 per electronic transaction, regardless of the number of items in that transaction, and \$2.75 per manual transaction.

(1993 Code, § 566.09)

§ 111.294 BOND REQUIRED.

At the time of filing an application for a license, the applicant shall file a bond in the amount of \$5,000 with the city. The bond, with a duly licensed surety company as surety thereon, must be approved as to form by the City Attorney. The bond must be conditioned that the licensee shall observe all ordinances of the city and all laws in regulation to the business of pawnbroker, and that the licensee will account for and deliver to any person legally entitled thereto any articles which may have come into the possession of the licensee as pawnbroker, or in lieu thereof the licensee shall pay the person or persons the reasonable value thereof. The bond shall contain a provision that it may not be cancelled without 30-days advance written notice to the licensing authority.

(1993 Code, § 566.10)

§ 111.295 PERSONS INELIGIBLE FOR A LICENSE.

(A) No license under this subchapter shall be issued to an applicant who is a natural person if:

(1) The applicant is a minor at the time the application is filed;

(2) The applicant has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker as prescribed by M.S. § 364.03, Subd. 3, as it may be amended from time to time;

(3) The proposed use does not comply with Chapter 152;

(4) The proposed use does not comply with any health, building, building maintenance or other provisions of the city code or state law;

(5) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter;

(6) The applicant has failed to comply with 1 or more provisions of this subchapter;

(7) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;

(8) The applicant has committed fraud, misrepresentation, or bribery in securing a license;

(9) The applicant has committed fraud, misrepresentation or made false statements in the application and investigation for the applicant's business;

(10) Business practices, or conduct, deemed by the city to be contrary to the best interests, or safety, of the public; or

(11) The applicant has violated within the preceding 5 years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(B) No license under this subchapter shall be issued to an applicant that is a partnership if:

(1) Any general partner or managing partner of the applicant is a minor at the time the application is filed;

(2) Any general partner or managing partner of the applicant has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker as prescribed by M.S. § 364.03, Subd. 3, as it may be amended from time to time;

(3) The proposed use does not comply with Chapter 33;

(4) The proposed use does not comply with any health, building, building maintenance or other provisions of the city code or state law;

(5) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter;

(6) The applicant has failed to comply with 1 or more provisions of this subchapter;

(7) Any general partner or managing partner of the applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;

(8) Any general partner or managing partner of the applicant has committed fraud, misrepresentation, or bribery in securing a license;

(9) Any general partner or managing partner of the applicant has committed fraud, misrepresentation or made false statements in the application and investigation for the applicant's business;

(10) Business practices, or conduct, deemed by the city to be contrary to the best interests, or safety, of the public; or

(11) Any general partner or managing partner of the applicant has violated within the preceding 5 years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(C) No license under this subchapter shall be issued to an applicant that is a corporation or other organization if:

(1) Any manager, proprietor, or agent in charge of the business to be licensed is a minor at the time the application is filed;

(2) Any manager, proprietor, or agent in charge of the business has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker as prescribed by M.S. § 364.03, Subd. 3, as it may be amended from time to time;

(3) The proposed use does not comply with Chapter 33;

(4) The proposed use does not comply with any health, building, building maintenance or other provisions of the city code or state law;

(5) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter;

(6) The applicant has failed to comply with 1 or more provisions of this subchapter;

(7) Any manager, proprietor, or agent in charge of the business is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;

(8) Any manager, proprietor, or agent in charge of the business has committed fraud, misrepresentation, or bribery in securing a license;

(9) Any manager, proprietor, or agent in charge of the business has committed fraud, misrepresentation or made false statements in the application and investigation for the applicant's business;

(10) Business practices, or conduct, deemed by the city to be contrary to the best interests, or safety, of the public; or

(11) Any manager, proprietor, or agent in charge of the business has violated within the preceding 5 years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(1993 Code, § 566.11)

§ 111.296 GENERAL LICENSE RESTRICTIONS.

(A) *Records required.* At the time of any reportable transaction other than renewals, extensions, or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Police Department:

(1) A complete and accurate description of each item, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;

(2) The purchase price, amount of money loaned upon, or pledged therefor;

(3) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;

(4) Date, time, and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records. Transaction identifiers must be consecutively numbered;

(5) Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes, and color of hair;

(6) The identification number and state of issue from an acceptable form of identification;

(7) The signature of the person identified in the transaction;

(8) The licensee must also take a color photograph or color video recording of:

(a) Each customer involved in a billable transaction; and

(b) Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed. If a photograph is taken, it must be at least 2 inches in length x 2 inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. The photographs must be available to the Chief of Police, or the Chief's designee, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being videotaped orally and by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for 3 months, and furnish it to the Police Department upon request.

(9) Effective 60 days from the date of notification by the Police Department, licensees must fulfill the color photograph requirements in division (A)(8) above by submitting them as digital images, in a format specified by the city, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in division (A)(8) above; and

(10) For renewals, extensions, and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

(B) Disposition of articles.

(1) When an article of pawned or pledged property is redeemed from a licensee, the records shall contain an account of the redemption with the date, interest charges accrued, and the total amount for which the article was redeemed.

(2) When an article of purchased or forfeited property is sold or disposed of by a licensee and the licensee receives \$100 or more in the payment thereof, the records shall contain an account of the sale with the date, the amount for which the article was sold, and the full name, current address, and telephone number of the person to whom sold.

(C) Inspection of records. The records must at all reasonable times be open to inspection by the Police Department. Data entries shall be retained for at least 3 years from the date of transaction. Entries of required digital images shall be retained a minimum of 120 days.

(D) *Daily reports to police.* Licensees must submit every reportable transaction to the Police Department daily in the following manner.

(1) Licensees must provide to the Police Department all information required in divisions (A)(1) through (A)(6) above and other required information, by transferring it from their computer to the Automated Pawn System via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the city using procedures that address security concerns of the licensees and the city. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to the Police Department daily.

(2) Licensees will be charged for each billable transaction reported to the Police Department.

(3) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department printed copies of all reportable transactions along with the videotape(s) for that date, by 12:00 p.m. the next business day.

(4) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must provide the required reports as detailed in division (D)(3) above, and must be charged a \$50 reporting failure penalty, daily, until the error is corrected.

(5) If the problem is determined to be outside the licensee's system, the licensee must provide the required reports in division (D)(3) above, and resubmit all the transaction via modem when the error is corrected.

(6) If a licensee is unable to capture, digitize, or transmit the photographs required in division (A)(9) above, the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the Police Department upon request.

(7) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.

(8) Divisions (D)(3) through (D)(5) above notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(E) *Receipt required.* Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for 3 years. The receipt must include at least the following information:

(1) The name, address, and telephone number of the licensed business;

(2) The date and time the item was received by the licensee;

- (3) Whether the item was pawned or sold, or the nature of the transaction;
- (4) An accurate description of each item received, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;
- (5) The signature or unique identifier of the licensee or employee that conducted the transaction;
- (6) The amount advanced or paid;
- (7) The monthly and annual interest rates, including all pawn fees and charges;
- (8) The last regular day of business by which the item must be redeemed by the pledgor without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date;
- (9) The full name, current residence address, current residence telephone number, and date of birth of the pledgor or seller;
- (10) The identification number and state of issue from an acceptable form of identification;
- (11) Description of the pledgor or seller including approximate sex, height, weight, race, color of eyes, and color of hair;
- (12) The signature of the pledgor or seller; and
- (13) All printed statements as required by M.S. § 325J.04, Subd. 2, as it may be amended from time to time, or any other applicable statutes.

(F) *Redemption period.* Any person pledging, pawning, or depositing an item for security must have a minimum of 120 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 90-day holding period, items may not be removed from the licensed location except as provided in § 111.298(A). Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor, or with approval of the police license inspector. Written authorization for release of property to persons other than original pledgor must be maintained along with original transaction record in accordance with division (A)(10) above.

(G) *Holding period.* Any item purchased or accepted in trade by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

(H) *Police order to hold property.*

(1) *Investigative hold.* Whenever the Chief of Police or the Chief's designee notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the Police Department within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to division (H)(2) below, whichever comes first.

(2) *Order to hold.* Whenever the Chief of Police, or the Chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Chief or the Chief's designee. The order to hold shall expire 90 days from the date it is placed unless the Chief of Police or the Chief's designee determines the hold is still necessary and notifies the licensee in writing.

(3) *Order to confiscate.* If an item is identified as stolen or evidence in a criminal case, the chief or chief's designee may:

(a) Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chief's designee; or

(b) Place the item on hold or extend the hold as provided in division (H)(2) above, and leave it in the shop. When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the Chief of Police, or Chief's designee shall so notify the licensee.

(I) *Inspection of items.*

(1) At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in division (O) below, during normal business hours, except in an emergency, for the purpose of inspecting the premises and inspecting the items, ware and merchandise and records therein to verify compliance with this subchapter or other applicable laws.

(2) All merchandise received by a pawnbroker, shall be subject to examination, during normal business hours, by any person claiming to have had any interest therein, when the person is accompanied by a police officer.

(J) *Pawning of motor vehicle titles.*

(1) In addition to the other requirements of state law, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall, pursuant to M.S. § 325J.095, as it may be amended from time to time:

(a) Be licensed as a used motor vehicle dealer under M.S. § 168.27, as it may be amended from time to time, and post the license on the pawnshop premises;

(b) Verify that there are no liens or encumbrances against the motor vehicle with the Department of Public Safety;

(c) Verify that the pledgor has automobile insurance on the motor vehicle as required by law; and

(d) A pawnbroker may not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.

(2) A pawn transaction that involves holding only the title to property is subject to M.S. Chapter 168A or 336, as they may be amended from time to time.

(K) *Label required.* Licensees must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the Police Department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

(L) *Firearms and weapons.* A pawnbroker shall not receive, display or sell any merchandise through a pawn, purchase, or consignment or trade consisting of a revolver, pistol, shotgun, automatic rifle, semiautomatic military-style assault weapon (as defined by M.S. § 624.712, as it may be amended from time to time), switchblade knife, or other similar weapons or firearms.

(M) *Risk of loss.* In the event pledged goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement of goods acceptable to the pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

(N) *License display.* A license issued under this subchapter must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application.

(O) *Responsibility of licensee.* A licensee under this subchapter shall be responsible for the conduct of the business being operated and shall maintain conditions of order. The conduct of agents or employees of a licensee, engaged in performance of duties for the licensee, shall be deemed the conduct of the licensee.

(P) *Gambling.* No licensee under this subchapter may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any

kind, which are redeemable in merchandise or cash. No gambling equipment authorized under M.S. Chapter 349, as it may be amended from time to time, may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S. Chapter 349A, as it may be amended from time to time.

(Q) *Penalty for property owner.* It is unlawful for any person who owns or controls real property to knowingly permit it to be used for pawn brokering without a license.

(R) *Premises.* All property deposited, left, pledged, pawned, or held for sale must be stored in an enclosed facility and may not be stored outside of the premises. The city may, however, permit the licensee to designate 1 off-premises locked and secured facility in which the licensee may store only cars, boats, and other motorized vehicles. The licensee shall permit immediate inspection of the facility at any time during business hours by the city. All provisions in this subchapter regarding record keeping and reporting shall apply to oversized items. All property shall be stored in compliance with zoning and/or fire regulations and in an orderly manner. The premises shall also be equipped with an operational security alarm.

(1993 Code, § 566.12) Penalty, see § 10.99

§ 111.297 RESTRICTED TRANSACTIONS.

(A) *Hours of operation.* No pawnbroker shall keep the pawnbroker business open for the transaction of business on any day of the week before 7:00 a.m. or after 10:00 p.m.

(B) *Minors.* A pawnbroker shall not purchase or receive personal property on deposit or pledge from any minor.

(C) *Incompetent persons.* A pawnbroker shall not purchase or receive personal property on deposit or pledge from any incompetent person.

(D) *Prohibited goods.* No licensee under this subchapter shall accept any item of property which contains an altered or obliterated serial number or “operation identification” number or any item of property whose serial number has been removed.

(E) *Security interest.* No licensee nor any agent or employee of a licensee shall purchase, accept, or receive any article of property knowing, or having reason to know, that the article of property is encumbered by a security interest. For the purpose of this subchapter, “security interest” means an interest in property which secures payment or other performance of an obligation.

(F) *True owner.* No licensee nor any agent or employee of a licensee shall purchase, accept, or receive any article of property, from any person, knowing, or having reason to know, that the person is not the true and correct owner of the property.

(G) *Proper identification.* No licensee nor any agent or employee of a licensee shall purchase, accept, or receive any article of property, from any person, without first having examined an acceptable form of identification.

(H) *Payment by check.* Payment of more than \$250 by a licensee for any article deposited, left, purchased, pledged or pawned shall be made only by a check, draft, or other negotiable or nonnegotiable instrument which is drawn against funds held by a financial institution. This policy must be posted in a conspicuous place in the premises.

(I) *Restrictions on sale.* A pawnbroker shall suspend, for 1 year, any business transaction with any person who has sold and/or forfeited, on 6 previous occasions, articles for which the person received \$50 or more per transaction within a single 6-month period.
(1993 Code, § 566.13)

§ 111.298 INSPECTION BY POLICE.

(A) *Premises.* Any licensee shall, at all times during the term of the license, allow the Police Department to enter the premises, where the licensee is carrying on business, including all off-site storage facilities as authorized in § 111.296(R), during normal business hours, except in an emergency, for the purpose of inspecting the premises and inspecting the articles and records therein to locate goods suspected or alleged to have been stolen and to verify compliance with this section or other applicable laws. No licensee shall conceal any article in his or her possession from the Police Department.

(B) *Inspection by police or claimed owner.* All articles of property coming into the possession of any licensee shall be open to inspection and right of examination of any police officer or any person claiming to have been the owner thereof or claiming to have had an interest therein when the person is accompanied by a police officer.
(1993 Code, § 566.14)

§ 111.299 CONDUCT OF PERSONS ON LICENSED PREMISES.

(A) *Property of another.* No person may pawn, pledge, sell, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, leave, or deposit any article of property in which another has a security interest; with any licensee.

(B) *Minors.* No minor may pawn, pledge, sell, leave, or deposit any article of property with any licensee.

(C) *Proper identification.* No person may pawn, pledge, sell, leave, or deposit any article of property with any licensee without first having presented an acceptable form of identification.

(D) *Required signage.* All licensees shall by adequate signage and separate written notice inform persons seeking to pawn, pledge, sell, leave, or deposit articles of property with the licensee of the foregoing requirements.

(1) For the purpose of this subchapter, “adequate signage” shall be deemed to mean at least 1 sign of not less than 4 square feet in surface area, comprised of lettering of not less than 3/4 of an inch in height, posted in a conspicuous place on the licensed premises and stating substantially the following:

TO PAWN OR SELL PROPERTY:

YOU MUST BE AT LEAST 18 YEARS OF AGE.

YOU MUST BE THE TRUE OWNER OF THE PROPERTY.

THE PROPERTY MUST BE FREE OF ALL CLAIMS AND LIENS.

YOU MUST PRESENT VALID PHOTO IDENTIFICATION.

VIOLATION OF ANY OF THESE REQUIREMENTS IS A CRIME.

(2) For the purpose of this subchapter, “separate written notice” shall be deemed to mean either the receipt, as required in § 111.296(E), or a printed form, incorporating a statement to the effect that the person pawning, pledging, selling, leaving, or depositing the article is at least 18 years of age; is the true owner of the article; and that the article is free of all claims and liens; which is acknowledged by way of signature of the person pawning, pledging, selling, leaving, or depositing the article.

(E) *False identification.* No person seeking to pawn, pledge, sell, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false driver’s license or identification card; to any licensee.

(F) *General restrictions.* No pawnbroker licensed under this subchapter shall:

(1) Lend money on a pledge at a rate of interest above that allowed by law;

(2) Knowingly possess stolen goods;

(3) Sell pledged goods before the time to redeem has expired;

(4) Refuse to disclose to the city, after having sold pledged goods, the name of the purchaser or the price for which the item sold; and/or

(5) Make a loan on a pledge to a minor.

(1993 Code, § 566.15) Penalty, see § 10.99

§ 111.300 RESTRICTIONS REGARDING LICENSE TRANSFER.

Each license under this subchapter shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give, or assign a license to another person.
(1993 Code, § 566.16)

§ 111.301 SUSPENSION OR REVOCATION OF LICENSE.

(A) The City Council may suspend or revoke a license issued under this subchapter upon a finding of a violation of:

- (1) Any of the provisions of this subchapter;
- (2) Any state statute regulating pawnbrokers;
- (3) Any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time;
- (4) Fraud, misrepresentation, or bribery in renewing a license;
- (5) Business practices, or conduct, deemed by the city to be contrary to the best interests, or safety, of the public; or
- (6) Any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(B) A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a public hearing. The written notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the pawnbroker. The notice may be served upon the pawnbroker personally or by United States mail addressed to the most recent address of the business in the license application.
(1993 Code, § 566.17)

§ 111.302 VIOLATIONS.

Violation of any provision of this subchapter shall be a misdemeanor.
(1993 Code, § 566.18)

PHYSICAL CULTURE AND HEALTH SERVICES AND CLUBS**§ 111.340 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MASSAGE. The rubbing, pressing, stroking, kneading, tapping, rolling, pounding, vibrating, or stimulating the superficial parts of the human body with the hands or any instrument by a person who is not duly licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry.

PHYSICAL CULTURE AND HEALTH SERVICES, PHYSICAL CULTURE AND HEALTH CLUB, REDUCING CLUB, REDUCING SALON, and THERAPEUTIC MASSAGE STUDIO. Any building, room, structure, place, or establishment used by the public other than a hospital, sanitarium, rest home, nursing home, boarding home or other institution for the hospitalization or care of human beings, duly licensed under the provisions of M.S. §§ 144.50 through 144.703, as they may be amended from time to time, inclusive, where nonmedical and non-surgical manipulative exercises or massages are practiced upon the human body for a fee or other valuable consideration by anyone not duly licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, with or without the use of mechanical, therapeutic, or bathing devices.
(1993 Code, § 575.01)

§ 111.341 BUSINESS LICENSE REQUIRED.

(A) *Limiting business licenses.* It is found and determined that the type of business activity subject to being licensed under this subchapter is particularly subject to abuse which may take a number of forms contrary to the morals, health, safety, and general welfare of the community. Further, it is found that control of these abuses requires intensive efforts of the Police Department as well as other departments of the city. These efforts exceed those required to control and regulate other business activities licensed by the city. This concentrated use of city services tends to detract from and reduce the level of service available to the rest of the community and thereby diminishes the ability of the city to promote the general health, welfare, morals, and safety of the community. Therefore, the number of business licenses which may be in force under this subchapter at any 1 time shall not exceed 7.

(B) *Requiring license and defining businesses operating within city.* No person, partnership, corporation, or other organization shall operate a physical culture and health service or club, reducing club or salon, or therapeutic massage studio within the city, either exclusively or in connection with any other operation or enterprise, unless the business is currently licensed under this subchapter.

(C) *Certain businesses exempt.*

(1) The preceding provisions of this subchapter notwithstanding, no business license shall be required for a business establishment which offers massage as an accessory use if it meets all of the following criteria as evidenced by affidavits and other documents submitted to and in form and substance reasonably acceptable to the City Manager.

(a) The principal activity of the business shall not be performing massage for a fee or other consideration.

(b) The annual gross revenue of the business from performing massage is less than 25% of the total annual gross revenue of the business as shown by financial statements or an affidavit signed by the authorized officer of the business. In lieu of delivery of the aforementioned affidavit, at the direction of the city, the business shall be required to deliver, a certification from a certified public accountant, acceptable to the Manager, that the annual gross revenue from massage services, for the preceding 12 months, is less than 25% of its total annual gross revenue for the period of time.

(c) The room or rooms where massage is performed shall not have an exclusive entrance from or exit to the exterior of the building in which the principal business is located or to a public concourse or public lobby. Notwithstanding the foregoing, massage may be performed by an individual at the residence of the person receiving the massage.

(d) All fees or other consideration derived from performing massage shall be received by and accounted for by the proprietor of the principal business.

(e) All individuals performing massage in connection with the business shall be employees of the principal business or shall be independent contractors or agents who perform massage pursuant to a written agreement with the owner of the principal business and each individual performing massage in connection with the business shall meet the educational requirements of § 111.352(E).

(2) Any business that requests an exemption from the business license requirement shall submit the required affidavits and documents on an annual basis. The exemption request shall be due on or before the fifteenth day of March of each year.

(1993 Code, § 575.02) Penalty, see § 10.99

§ 111.342 LICENSE APPLICATION AND PROCEDURES.

Every application for a license under this subchapter shall be made on a form supplied by the City Manager and shall be filed with the City Manager. The provisions of § 111.002 shall apply to all licenses required by this subchapter and to the holders of the licenses. In addition to the information required by § 111.002, the application for a license under this subchapter shall contain the following information. Failure to complete or supply the information may cause a license to be denied:

(A) Whether the applicant is a natural person, a partnership, a corporation, or other form of organization;

(B) If the applicant is a natural person:

(1) The true name, place and date of birth, current address, and telephone number of the applicant;

(2) Whether the applicant has ever used or has been known by a name other than the applicant's true name; and if so, the name or names and information concerning dates and places where used;

(3) A specific statement as to the type and nature of the business to be licensed;

(4) The name of the business, if it is to be conducted under a name other than the full individual name of the applicant, in which case a certified copy of the certification required by M.S. Chapter 333, as it may be amended from time to time, shall be attached to the application;

(5) The addresses at which the applicant has lived during the previous 5 years, including a statement of how long the applicant has been continuously a resident of the state during the period as of and immediately preceding the date of application;

(6) The kind, name, and location of every business or occupation in which the applicant has been engaged during the preceding 5 years;

(7) The names and addresses of the applicant's employer(s) and partner(s), if any, who were such at any time during the preceding 5 years; and

(8) Whether the applicant has ever been convicted of any felony, crime, or violation of any provisions of this code or state law other than traffic violations and, if so, information as to the time, place and offense for which convictions were had.

(C) If the applicant is a partnership:

(1) The names and addresses of all partners and all information concerning each partner as is required of an applicant under division (B) above;

(2) The names(s) of the managing partner(s), and the interest of each partner in the business; and

(3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to trade name under the provisions of M.S. Chapter 333, as it may be amended from time to time, a certified copy of the certification shall also be attached.

(D) If the applicant is a corporation or other organization:

(1) The name of the applicant, and if incorporated, the state of incorporation;

(2) A true certificate of good standing, dated as of a current date, and true copies of the articles of incorporation or association agreement and bylaws shall be attached to the application. If a foreign corporation, a certificate of authority issued pursuant to M.S. Chapter 303, as it may be amended from time to time, shall also be attached;

(3) The name of the person(s) who is to manage the business and all information concerning the person(s) as is required of an applicant under division (B) above;

(4) The names of all officers, directors, and persons who control or own an interest in excess of 5% in the corporation or organization and all information concerning the persons as is required of an applicant under division (B) above.

(E) The location of the business premises;

(F) Whether the applicant is licensed in other communities or has had a license revoked, or has been denied a license, to conduct any of the activities required to be licensed hereunder; and if so, when and where the applicant is or was so licensed, has had a license revoked or has been denied a license;

(G) The names, residences, and business addresses of 3 residents of Hennepin County or Ramsey County, not related to the applicant or financially interested in the business to be licensed, who may be referred to by the city for information as to the applicant's character. If the applicant is a partnership, 3 names shall be supplied for each partner, and if the applicant is a corporation or other organization, 3 names shall be supplied for each officer of the applicant and each manager of the business;

(H) The amount of capital investment to be made by the applicant in the premises described in the application to operate the business to be licensed. Capital investment shall mean the amount of money that the applicant actually invests to acquire, refurbish, repair, remodel, or furnish the premises, including moneys invested to comply with § 111.353;

(I) A financial statement, certified as being true and correct by an independent accountant, showing the gross income of the business to be licensed for the last 3 fiscal years of the business, or shorter period of time that the applicant may have been in the business to be licensed, itemized as to each activity of the business including, without limitation, the gross income from performing massage; and

(J) The names of all individuals performing massages in connection with the business and evidence that all the individuals meet the educational requirements of § 111.352.

(1993 Code, § 575.03)

§ 111.343 EXECUTION OF APPLICATION.

All applications for any license under this subchapter shall be signed by the applicant in accordance with § 111.002(B). Any falsification of information on any license application shall result in the denial of the license applied for, and shall constitute adequate grounds for the suspension or revocation of any license issued to the applicant.
(1993 Code, § 575.04)

§ 111.344 LICENSE AND INVESTIGATION FEES.

(A) *License fee.* Each application for a license or renewal license shall be accompanied by payment in full of the required license fee. The fee for a business license shall be as set forth in Chapter 33. Upon rejection of any application for a license, the City Manager shall refund the amount paid.

(B) *Investigation fee.* At the time of each original application for a business license, the applicant shall deposit an investigation fee as set forth in Chapter 33. The cost of the investigation will be based on the expense involved. All deposit monies not expended on the investigation will be refunded to the applicant.
(1993 Code, § 575.05)

§ 111.345 INVESTIGATION.

All applications shall be referred to the Police Department-for verification and investigation of the facts set forth in the application as described in Section 111.002 subsection C.
(1993 Code, § 575.06) (Am. Ord. 2009-008, passed 6-23-2009) (Ord. 2012-08, passed 10-23-2012)

§ 111.346 APPROVAL OR DENIAL OF APPLICATION.

(A) Within 90 days after the application date, the Manager shall either approve or deny the application and shall notify the City Manager in writing of the decision. If the application is approved, the City Manager shall issue the license. If the application is denied, the City Manager shall furnish written notice of the denial to the applicant, together with the reason or reasons for denial.

(B) A license may also be denied for any of the following reasons:

(1) *Under legal age.* If an individual applicant is under the age of 18;

(2) *Convictions.* If the applicant, or any officers, managers, directors, shareholders or owners, if a corporation or association, or any partners, if a partnership, has been convicted of a felony, or has been convicted of any illegal conduct involving moral turpitude, dishonesty, fraud, deceit, or misrepresentation;

(3) *Conviction without sufficient rehabilitation.* If the applicant, or any principal officers, managers, directors, shareholders or owners, if a corporation or association, or any partners, if a partnership, has been convicted of any crime or crimes directly relating to the occupation of massage services, as provided in M.S. § 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation of massage services, as provided in M.S. § 364.03, Subd. 3, as it may be amended from time to time;

(4) *Prior denial of license.* If the applicant, or any principal officers, managers, directors, shareholders or owners, if a corporation or association, or any partners, if a partnership, has within 1 year prior to the date of application been denied a license under this subchapter, or any similar ordinance of any municipality within the state, or within the period has had revoked any license issued under this subchapter, or any similar ordinance of any municipality within the state;

(5) *Zoning restriction.* If the business to be licensed is not permitted by Chapter 152 upon the premises described in the application; and

(6) *Failure to meet construction requirements.* If the premises described in the application for a business license fail to comply with the requirements of § 111.353.
(1993 Code, § 575.07)

§ 111.347 RENEWAL APPLICATION.

Not less than 30 nor more than 60 days before the expiration of any license issued pursuant to this subchapter, any license holder desiring to renew the license shall submit a written application to the City Manager on forms provided by the city together with payment in full of the license fee as required for the original license. The renewal application shall be forwarded to the Manager who shall, within 30 days after the renewal application date, either approve or deny the application and shall notify the City Manager in writing of the decision. The City Manager shall then issue the license or, in case of denial, notify the applicant in writing of the denial setting forth the reason or reasons therefor.
(1993 Code, § 575.08)

§ 111.348 APPEAL TO CITY COUNCIL.

Any applicant may appeal the denial of a license or a license renewal by filing a written notice of appeal to the City Council in the City Manager's office within 10 days after the denial. The City Council shall hear the appeal within 60 days after the notice is filed, and opportunity shall be given to any person

to be heard in favor of or opposing the issuance or renewal of the license. The City Council may order and conduct the additional investigation as it deems necessary. Any licensee is authorized to continue to operate until final action by the City Council upon licensee's renewal application, unless prohibited by City Council resolution made after the denial.

(1993 Code, § 575.09)

§ 111.349 LICENSE NOT TRANSFERABLE; DURATION.

Each license shall be issued to the applicant only and shall not be transferable to another holder. Any change in the persons named as partners on the application, as required by § 111.342(C)(1) and any change in the persons who are named in the application as required by § 111.342(D) shall be deemed a transfer for purposes of this subchapter. If the licensee is a limited partnership, a change in the limited partners of less than 25% cumulatively over the license period shall not be deemed a transfer. The change in or addition of a vice-president, secretary, or treasurer of a corporate licensee shall not be deemed a transfer. All licenses issued pursuant to this subchapter shall be effective for the period provided in § 111.007.

(1993 Code, § 575.10)

§ 111.350 SUSPENSION OR REVOCATION OF LICENSE.

The City Council may suspend for any period not exceeding 60 days, or revoke, any license issued pursuant to this subchapter upon finding a violation of any provision of this subchapter or upon violation of any other provision of this code or state law or regulation affecting the activities covered by this subchapter. Any conviction for prostitution or any other crime or violation involving moral turpitude shall result in the revocation of any license issued under this subchapter. Except in the case of a suspension pending a hearing on revocation, revocation or suspension by the City Council shall be preceded by written notice to the licensee of a hearing. The notice may be served upon the licensee personally or by mailing it to the business or residence address set forth in the application or on file with the City Manager. The notice shall give at least 10-days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The City Council may, without notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days.

(1993 Code, § 575.11)

§ 111.351 HOURS OF OPERATION.

No business licensed under this subchapter shall be open for business, nor shall any customers be permitted on the premises, between the hours of 10:00 p.m. and 7:00 a.m.

(1993 Code, § 575.12) Penalty, see § 10.99

§ 111.352 RESTRICTIONS AND REGULATIONS.

(A) *Notice of change in management.* The individual designated by a partnership or a corporation in its business license application to be manager and in responsible charge of the business shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the license holder. The license holder shall promptly give the Police Department written notice of any such change indicating the name and address of the new manager and the effective date of the change.

(B) *Clothing requirements.* Employees of businesses licensed under this subchapter shall be and shall remain fully clothed while performing massage.

(C) *Location of services.* No person shall perform a massage for a fee or other consideration at any place other than a physical culture and health service, physical culture or health club, reducing salon, or therapeutic massage studio that has been duly licensed pursuant to § 111.341(B), a business which is exempt from a business license pursuant to § 111.341(C), or the residence of the person receiving the massage.

(D) *No services allowed by sexually-oriented businesses.* No person shall perform a massage for a fee or other consideration in connection with a sexually-oriented business as defined by Chapter 33.

(E) *Educational requirements.* No person shall perform a massage for a fee or other consideration unless the person has at least 150 hours of education in massage therapy from a school for massage therapy accredited by the Integrated Massage Somatic Therapy Accreditation Council or other accrediting agency approved by the Manager.

(1993 Code, § 575.13)

§ 111.353 CONSTRUCTION REQUIREMENTS.

No business license shall be issued under this subchapter unless the premises used for the operation shall comply with the following requirements.

(A) *Requirements for steam or hot air rooms.* All rooms utilizing steam or hot air as a cleaning, relaxing or reducing agent, and all restrooms, changing rooms and bathrooms used in connection with the rooms, shall be constructed with materials impervious to moisture, bacteria, mold and fungus growth. Floor-to-wall and wall-to-wall joints shall be constructed so as to provide a sanitary cove with a minimum radius of 3/8 inch.

(B) *Public restroom requirements.* All public restrooms shall be provided with mechanical ventilation with 2 cfm (cubic feet per minute) per square foot area, a minimum of 15 footcandles of illumination, a hand washing sink equipped with hot and cold running water under pressure, sanitary towels with dispensers and soap with dispensers.

(C) *Requirements for janitor's closet.* Each operation shall have a janitor's closet for the storage of cleaning supplies with a mop sink, mechanical ventilation with 2 cfm per square foot area and a minimum of 15 footcandles of illumination.

(D) *Lockers.* Individual lockers shall be provided for use by customers and shall have separate keys for locking.
(1993 Code, § 575.14)

§ 111.354 MAINTENANCE; SANITARY CONDITIONS; COMMUNICABLE DISEASE.

(A) *Clean and sanitary business.* All businesses licensed under this subchapter at all times shall be kept in a clean and sanitary condition.

(B) *Clean and sanitary instruments.* All instruments and mechanical, therapeutic, and bathing devices or parts that come into contact with the human body at all times shall be kept clean and sanitary.

(C) *Towels and linens.* No towels and linens furnished for use by 1 patron shall be furnished for use by another until thoroughly laundered.

(D) *Hand washing.* All individuals who practice massage shall wash their hands before each massage.

(E) *Communicable disease.* No person suffering from a communicable disease shall work or be employed in a licensed business. No person suffering from a communicable disease to the knowledge of the owner, custodian, or employees of a licensed business shall be accommodated as a patron.
(1993 Code, § 575.15) Penalty, see § 10.99

§ 111.355 INSPECTION.

Each business required to be licensed shall at all times be held open for inspection by duly authorized representatives of the city.
(1993 Code, § 575.16)

§ 111.356 BARBER SHOPS AND BEAUTY SALONS EXEMPTED.

Barber shops and beauty salons which do not give, or hold themselves out to give, massages, other than are customarily given in the shops and salons for the purpose of facial beautification only shall not be subject to the provisions of this subchapter.
(1993 Code, § 575.17)

FIREWORKS DEALERS**§ 111.370 PURPOSE AND FINDINGS.**

The purpose of this subchapter is to regulate the sale of consumer fireworks in order to protect the health, safety, and welfare of the general public. The City Council makes the following findings regarding the need to license and regulate the sale, display, distribution, and storage of consumer fireworks:

(A) The unregulated sale, display, distribution, and storage of consumer fireworks presents a fire safety hazard because these items contain pyrotechnic chemical compositions that are combustible;

(B) To ensure compliance with the limitations as to chemical content provided in M.S. § 624.20, Subd. 1(c), as it may be amended from time to time, regular inspection, sampling and testing of consumer fireworks held for sale, display, distribution, and storage is necessary;

(C) To prevent the illegal sale of consumer fireworks to minors, regular police inspections are necessary;

(D) Regular inspections by the City Fire Department are necessary to prevent improper display, storage, and disposal of consumer fireworks;

(E) The improper disposal of consumer fireworks presents environmental hazards; and

(F) Accurate information concerning the addresses and locations of persons holding consumer fireworks for sale, display, distribution, and storage in the city is necessary to facilitate the inspection of the premises for compliance with necessary safety regulations and performance standards and to assist the city in responding to any emergency situation arising at or adjacent to the premises.
(1993 Code, § 580.01)

§ 111.371 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONSUMER FIREWORKS. Those non-explosive, non-aerial pyrotechnic entertainment devices containing only the limited amounts of pyrotechnic chemical compositions permitted by M.S. § 624.20, Subd. 1(c), as it may be amended from time to time, including certain wire or wood sparklers, other sparkling items, and other novelty items.

FIREWORKS DEALER. A person engaged in the business of selling, displaying, or storing, any form of consumer fireworks.

LICENSE. A license granted pursuant to this subchapter.

LICENSED PREMISES. The premises described in the license application and approved site plan for the sale, display, or storage of consumer fireworks.

LICENSEE. The person, partnership, corporation, or association to whom a license is issued under this subchapter, including any agents or employees of the person, partnership, corporation, or association.

MINOR. Any natural person under the age of 18 years.

NON-PERMANENT PLACE OF BUSINESS. A business whose physical location is not permanent or is capable of readily being moved or changed, including without limitation, commercial transactions conducted in whole or in part from non-permanent stands, sales kiosks, tents, motorized vehicles, trailers, or carts.

SALE, SELL, SOLD. All barter, exchanges, gifts, sales, and other means used to obtain, dispose of, or furnish any consumer fireworks, directly or indirectly, as part of a commercial transaction, in violation or evasion of the provisions of this subchapter.
(1993 Code, § 580.02)

§ 111.372 LICENSE REQUIRED.

No person shall keep for retail sale or wholesale distribution, sell at retail or wholesale, or otherwise supply or furnish as part of any commercial transaction, directly or indirectly, upon any pretense or by any device, any consumer fireworks without first having obtained a current license hereunder, paid the required license fee, and conspicuously posted the license on the licensed premises. Issuance of a license under this subchapter shall not relieve the person from obtaining any other license required by the city code, state law, or federal law, to conduct this or other businesses at the same or any other location.
(1993 Code, § 580.03) Penalty, see § 10.99

§ 111.373 LICENSE APPLICATION.

An application for any license required by this subchapter or the renewal of an existing license shall be made on forms provided by the City Manager. A separate application is required for each premises for which the applicant seeks a license. The provisions of §§ 111.001 through 111.014, shall apply to all licenses required by this subchapter, and to the holders of the licenses, except that licenses and renewals shall be granted or denied in accordance with §§ 111.374 through 111.376. All applications shall be accompanied by the fees set forth in Chapter 33. In addition to the application requirements provided in §§ 111.001 through 111.014, applicants shall also provide the following:

- (A) The applicant's full legal name, mailing address, and telephone number;
 - (B) Identification of whether the applicant is a natural person, partnership, corporation, or any other business association or organization;
 - (C) The street address or legal description of the premises for which the applicant seeks a license;
 - (D) A description of the type of business that is currently transacted on the premises for which the applicant is seeking a license;
 - (E) A detailed site plan illustrating the location of and describing any and all methods of sale, display, distribution, and storage of consumer fireworks;
 - (F) The hours of operation, identification of and policies related to on-site management, and parking facilities of the premises for which the applicant seeks a license;
 - (G) If the applicant is not the owner of or otherwise not legally responsible for the premises or which the applicant seeks a license, the name, address, and telephone number of the person legally responsible for the licensed premises;
 - (H) If the applicant is not the owner of the premises for which the applicant seeks a license, a true and correct copy of the current, executed lease, as well as a written authorization executed by the owner of the premises, for the applicant's use of the premises for the sale, display, distribution, and storage of consumer fireworks;
 - (I) Any affidavits of the applicant as required by the City Manager, on forms provided by the City Manager, in support of the application;
 - (J) The applicant's written authorization to release information obtained in connection with the application;
 - (K) A statement signed by the applicant and, where the applicant is not the owner of the premises for which the license is sought, from the property owner stating that he or she has reviewed and understands the pertinent provisions of this subchapter and state law; and
 - (L) Any additional information deemed necessary by the City Manager to undertake consideration of the application.
- (1993 Code, § 580.04)

§ 111.374 LICENSE APPLICATION VERIFICATION AND CONSIDERATION.

All applications will require criminal history data as described in Section 111.002 subsection C. Within 30 days after receipt of the completed application and the criminal history background has been completed, the Police Department will make a written report and recommendation to the City Council as to the issuance or non-issuance of the license. If the application is denied, the City Manager shall notify the applicant of the denial in writing. The notice shall be mailed by regular and certified mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within 20 days from the date of the notice, to submit a written request to the City Manager for an appeal of the denial to the City Council. Appeals that are timely-received shall take place before the City Council within reasonable period.

(1993 Code, § 580.05) (Am. Ord. 2009-008, passed 6-23-2009) (Am. Ord. 2012-08, passed 10-23-2012)

§ 111.375 LICENSE FEE.

The annual license application fee shall be the amounts set forth in Chapter 33. The amount of the license fee will depend upon whether the fireworks dealer is engaged in the business of selling only consumer fireworks. The license fee shall cover the administrative and enforcement costs, including the costs associated with conducting unannounced compliance checks, inspections by the Fire Department, inspections by the Police Department, as well as sampling and testing of the merchandise to ascertain chemical content. Full payment of the required license fee shall accompany the application. A separate fee and license shall be required for each separate, non-contiguous licensed premises, even if owned and operated by the same licensee.

(1993 Code, § 580.06)

§ 111.376 TERM OF LICENSE; RENEWAL.

(A) *Term of license.* The annual license shall be effective for 1 year from the date of approval.

(B) *Renewal.* An application for the renewal of an existing license shall be made prior to the expiration date of the license and shall be made in the form as the city requires. Renewal applications shall be submitted at least 60 days but not more than 150 days before expiration of the license. If, in the

judgment of the City Council, good and sufficient cause for the applicant's failure to apply for a renewal within the time provided is shown, the City Council may, if the other provisions of this subchapter are complied with, grant the license.

(1993 Code, § 580.07)

§ 111.377 PERSONS INELIGIBLE FOR A LICENSE.

The following restrictions apply to any applicant who is a natural person, a general partner if the applicant is a partnership, or a corporate officer if the applicant is a corporation. No license shall be granted to:

(A) Any person who is a minor at the time the application is filed;

(B) Any person who is not of good moral character or repute;

(C) Is not the real party in interest in the business being licensed;

(D) Any person who has knowingly falsified or misrepresented information on the license application;

(E) Any person who owes taxes or assessments to the state, county, school district, or city that are due and delinquent; and

(F) Any person who has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, Subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a fireworks dealer as prescribed by M.S. § 364.03, Subd. 3, as it may be amended from time to time.

(1993 Code, § 580.08)

§ 111.378 LOCATIONS INELIGIBLE FOR A LICENSE.

The following locations shall be ineligible for a license under this subchapter.

(A) *Claims due.* No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the state, county, school district, or city are due, delinquent, or unpaid. In the event a suit has been commenced under M.S. §§ 278.01 through 278.14, as they may be amended from time to time, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding 1 year after becoming due.

(B) *Improper zoning.* No license shall be granted if the property is not properly zoned for the activity being licensed under Chapter 152, unless the business is a legal, nonconforming use.

(C) *Non-permanent place of business.* No license shall be granted for the sale of consumer fireworks at a non-permanent place of business.
(1993 Code, § 580.09)

§ 111.379 LICENSE RESTRICTIONS.

(A) *License display.* A license issued under this subchapter must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application.

(B) *Licensed premises.* A separate license is required for each place of business.

(C) *Change in ownership.* Any change, directly or beneficially, in the ownership of the licensed business shall require the application for a new license and the new owner must satisfy all current eligibility requirements.

(D) *Non-transferable.* Each license under this subchapter shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give, or assign a license to another person.

(E) *Location restrictions.* A license under this subchapter authorizes the licensee to carry on its business only at the permanent place of business designated on the license. However, upon written request, the city may approve an off-site locked and secured storage facility. The site must meet all city zoning requirements and must have the written approval of the city's Fire Department. The licensee shall permit inspection of the facility in accordance with this subchapter. Property shall be stored in compliance with all provisions of the city code and in compliance with the standards established by the city's Fire Department. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises which extends for more than 6 months. No retail business transactions shall be conducted at this off-site storage site.
(1993 Code, § 580.10) Penalty, see § 10.99

§ 111.380 OPERATION RESTRICTIONS.

(A) *Customer safety information provided.* At the point of sale, each purchaser of consumer fireworks shall be provided with safety information complied by the Minnesota Department of Public Safety, State Fire Marshal Division, or other safety information as directed by the City Manager or City Council.

(B) *Maintenance of order.* A licensee under this subchapter shall be responsible for the conduct of the business being operated and shall maintain conditions of order.

(C) *Maintenance of storage areas; permissible amounts of consumer fireworks.* Any significant deviation, enlargement, or alteration from the approved site plan for the storage areas covered by the license must be pre-approved in writing by the city's Fire Department. The total quantity of consumer fireworks stored on any property shall not exceed 100 pounds. Buildings used for the storage of consumer fireworks shall be 1-story, without a basement, nonresidential, and fully protected by an automatic fire sprinkler system. Buildings used for the storage of consumer fireworks that are also used for other purposes shall store the consumer fireworks in a room or area used exclusively for the storage of consumer fireworks having interior walls with a minimum fire-resistance rating of 1 hour and having doors with a minimum fire-resistance rating of 45 minutes. Buildings used for the storage of consumer fireworks must be located at a minimum distance of 70 feet from inhabited buildings and 35 feet from public highways and other storage buildings.

(D) *Retail sale displays.* Any and all displays of consumer fireworks for retail sale must meet the standards and requirements provided in National Fire Protection Association Standard 1124 (2003 edition).

(E) *Smoking prohibited.* A licensee under this subchapter must strictly prohibit any cigarette, cigar, or pipe smoking in or around the licensed premises and conspicuously post and maintain appropriate "NO SMOKING" signage throughout.

(F) *Prohibited Transactions.* No licensee, clerk, agent or employee thereof shall sell, distribute, or furnish any consumer fireworks to a minor, to any person who is obviously intoxicated, chemically impaired, or incompetent, or to any person who fails to present competent age identification in the form of a current, valid Minnesota driver's license, current, valid Minnesota identification card, or current, valid photo driver's license or photo identification issued by another state or a province of Canada.

(G) *Inspection of items.* The licensee must, at all times during the term of the license, allow the authorized agents of the city, Fire Department, and Police Department, to enter the premises where the licensed business is located, including all display areas, storage areas and all approved off-site storage facilities, during normal business hours, or beyond normal business hours where the inspector determines an emergency situation exists, for the purpose of inspecting the premises and inspecting the items, wares, and merchandise therein for the purpose of verifying compliance with the requirements of this subchapter, and any other applicable state and federal regulations. Upon request, the licensee must provide a test sample to the inspector for the purpose of verifying the chemical content of the merchandise.

(H) *Proper disposal of unsold consumer fireworks.* It shall be the responsibility of the licensee to properly dispose of all unsold permitted consumer fireworks. Any consequential cost to the city for disposal of these goods shall be the ultimate responsibility of the property owner and the city may levy the amount of the cost plus interest as a special assessment against the property to which the costs pertain.

(I) *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 subchapter or applicable state or federal law. Any consequential cost to the city for disposal of these goods shall be the ultimate responsibility of the property owner and the city may levy the amount of the cost plus interest as a special assessment against the property to which the costs pertain.
(1993 Code, § 580.11)

§ 111.381 SANCTIONS FOR LICENSE VIOLATIONS.

(A) *Suspension or revocation.* The City Council may suspend or revoke a license issued pursuant to this subchapter for a violation of:

- (1) Fraud, misrepresentation, or false statement contained in a license application or a renewal application;
- (2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business;
- (3) Any violation of this subchapter or state law;
- (4) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by M.S. § 364.03, Subd. 2, as it may be amended from time to time, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by M.S. § 364.03, Subd. 3, as it may be amended from time to time;
- (5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community; and
- (6) Any significant unauthorized deviation, enlargement, or alteration of the approved site plan for the storage and sales display areas of the licensed premises shall, in and of itself, constitute a basis for license revocation.

(B) *Notice of hearing.* A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular and certified mail to the licensee at the most recent address listed on the license application.
(1993 Code, § 580.12)

§ 111.382 VIOLATIONS.

A violation of this subchapter shall be a misdemeanor under Minnesota law.
(1993 Code, § 580.13) Penalty, see § 10.99

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

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REGULATIONS**§ 112.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BAR. A counter or similar kind of place or structure at which wine or liquor is served.

COMMISSIONER. The State Commissioner of Public Safety.

FOOD ESTABLISHMENT. Any establishment providing for table service or self-service of food or beverages.

HOTEL. An establishment where food and lodging are regularly furnished to transients and which has a dining room serving the general public at tables and having facilities for seating at least 30 guests at 1 time, and at least 50 guest rooms.

INTOXICATING LIQUOR. Ethyl, alcohol, and distilled, fermented, spirituous, vinous, and malt beverages containing in excess of 3.2% of alcohol by weight.

INTOXICATING MALT LIQUOR. Any beer, ale, or other beverage made from malt by fermentation and containing more than 3.2% of alcohol by weight.

LICENSE. A license granted pursuant to this subchapter.

LICENSED PREMISES. The area shown in the license application as the place where wine or liquor will be served or consumed.

LIQUOR. 3.2% malt liquor, intoxicating liquor, and intoxicating malt liquor.

MEAL. Entrees and sandwiches offered on a restaurant menu.

OFF-SALE. Retail sale in the original package for consumption away from the premises only.

ON-SALE. Sale for consumption on the premises only.

ORIGINAL PACKAGE. Any container or receptacle holding liquor, in which the liquor is corked or sealed at the place of manufacture.

RESTAURANT. An establishment, under control of a single proprietor or manager, having appropriate facilities for serving meals and where in consideration of payment, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests, and which has a seating capacity for not fewer than 30 guests at 1 time.

SALE, SELL, SOLD. All barter, exchanges, gifts, sales, and other means used to obtain, dispose of, or furnish any liquor or wine or any other beverage, directly or indirectly, as part of a commercial transaction, in violation or evasion of the provisions of this subchapter, but does not include sales by state licensed liquor wholesalers selling to licensed retailers.

STATE ESTABLISHED LEGAL DRINKING AGE. For purposes of this subchapter, the state established legal age for consumption of liquor and wine is 21 years of age.

3.2% MALT LIQUOR. Any potable beverage with an alcoholic content of more than 1/2 of 1% by volume and not more than 3.2% by weight.

WINE. Vinous beverage created by fermentation.
(1993 Code, § 1000.01)

§ 112.02 OFF-SALE LIMITED TO MUNICIPAL LIQUOR STORES.

No intoxicating liquor, intoxicating malt liquor, or wine shall be sold, or caused to be sold, at off-sale within the city by any person, or by any store or establishment, or by any agent or employee of the person, store, or establishment, except by the city and on the premises in the city occupied by the municipal stores for off-sale of liquor.

(1993 Code, § 1000.02) Penalty, see § 10.99

§ 112.03 LICENSE REQUIRED.

No person, except wholesalers or manufacturers to the extent authorized by law, directly or indirectly, upon any pretense or by any device, shall sell at off-sale any 3.2% malt liquor or at on-sale any 3.2% malt liquor, intoxicating malt liquor, wine, or intoxicating liquor without first having obtained a license except that a license shall not be required for any sales at the municipal stores for the on-sale and off-sale of liquor established by § 112.10.

(1993 Code, § 1000.03) Penalty, see § 10.99

§ 112.04 LICENSE TYPES.

Licenses shall be of 8 types:

(A) *On-sale intoxicating liquor license.* Permits the on-sale of liquor and wine at qualifying hotels and restaurants. A qualifying hotel with multiple points of liquor sale and service within the hotel may operate under a single on-sale intoxicating liquor license provided that the sale of food and liquor is

under the exclusive ownership and control of the licensee. Any restaurant or other facility serving liquor within a hotel which operates under separate ownership or control shall be considered a distinct entity for purposes of this subchapter;

(B) *Off-sale 3.2% malt liquor license.* Permits the off-sale of 3.2% malt liquor at certain retail establishments;

(C) *On-sale 3.2% malt liquor license.* Permits the on-sale of 3.2% malt liquor at certain retail establishments;

(D) *Wine license.* Permits the on-sale of wine at qualifying hotels and restaurants;

(E) *Temporary on-sale 3.2% malt liquor license.* Permits the on-sale of 3.2% malt liquor at events sponsored by certain organizations. Not more than 3 licenses shall be issued to any 1 organization in a 12-month period with at least 30 days between issue dates. Each license shall be issued for not more than 3 consecutive days;

(F) *Temporary wine license.* Permits the on-sale of wine at events sponsored by certain organizations. Not more than 3 licenses shall be issued to any 1 organization in a 12-month period with at least 30 days between issue dates. Each license shall be issued for not more than 3 consecutive days. A temporary wine license may provide that the licensee may contract for wine catering services with the holder of an on-sale intoxicating liquor license or the holder of a full-year on-sale intoxicating liquor license issued by another municipality;

(G) *Sunday on-sale license.* Permits the on-sale of intoxicating liquor on Sunday. Only persons holding an on-sale intoxicating liquor license may hold a Sunday on-sale license; and

(H) *Combination on-sale wine and on-sale 3.2% malt liquor license.* A holder of an on-sale wine license issued pursuant to this subchapter, who is also licensed to sell 3.2% malt liquor pursuant to state statute, and gross receipts are at least 60% attributable to the sale of food, and holds a liquor liability insurance policy, may sell intoxicating malt liquor on-sale without an additional license.
(1993 Code, § 1000.04)

§ 112.05 LICENSE APPLICATION; RENEWAL.

(A) An application for any license required by this subchapter or the renewal of an existing license shall be made on forms provided by the City Manager. The provisions of §§ 111.001 through 111.014 shall apply to all licenses required by this subchapter, and to the holders of the licenses, except that licenses and renewals shall be granted or denied in accordance with § 112.06. All applications shall be accompanied by the fees set forth in § 112.07. Every license issued under this subchapter shall expire

at 12:01 a.m. on March 15 following its date of issuance. Renewal applications shall be submitted at least 60 days but not more than 150 days before expiration of the license. If, in the judgment of the City Council as to off-sale and on-sale licenses, good and sufficient cause for the applicant's failure to apply for a renewal within the time provided is shown, the City Council, may, if the other provisions of this subchapter are complied with, grant the license.

(B) In addition to the application requirements provided in §§ 111.001 through 111.014, applicants shall also provide the following:

(1) The type of license the applicant seeks;

(2) A description of the type of business to be transacted on the licensed premises;

(3) Proof of financial responsibility with regard to liability imposed by M.S. § 340A.801, as it may be amended from time to time, in the manner and to the extent required by M.S. § 340A.409, as it may be amended from time to time. If the applicant claims exemption from the requirements of the statute, proof of exemption shall be established by affidavit given by the applicant in form and substance acceptable to the City Manager;

(4) All forms and information required by the Chief of Police, the Minnesota Department of Public Safety and the Minnesota Department of Revenue;

(5) Any affidavits of the applicant as required by the City Manager, on forms provided by the City Manager, in support of the application;

(6) Authorization to release information obtained in connection with the application;

(7) A statement signed by the applicant stating that he or she has reviewed and understands the pertinent provisions of this subchapter and state law;

(8) In the case of an application for a wine license, or on-sale intoxicating liquor license, the applicant shall provide evidence satisfactory to the City Manager as to compliance with the requirements of § 112.12 as to the completion of an alcohol awareness program;

(9) In the case of an application for a wine license or on-sale intoxicating liquor license, the applicant shall provide evidence satisfactory to the City Manager as to compliance with the requirements of § 112.12 as to the percentage of food sold on the licensed premises. This requirement shall be established by an affidavit of the licensee on a form provided by the City Manager. The affidavit shall be given with each application for issuance or renewal on a wine license or an on-sale intoxicating liquor license, or at other times as the City Manager may request. If the application is for the renewal of a wine license or an on-sale intoxicating liquor license, the affidavit shall also include the actual percentage of gross receipts attributable to the sale of food during the immediately preceding 12-month period. The

City Manager shall require that any such affidavit be verified and confirmed, on a form provided by the City Manager, by a certified public accountant. Failure or refusal of a licensee to give the affidavit with the application, or on request of the City Manager, or any false statement in any such affidavit, shall be grounds for denial, suspension, or revocation of all licenses held by the licensee;

(10) In the case of an application for a temporary on-sale 3.2% malt liquor license or temporary wine license, the applicant shall provide evidence satisfactory to the City Manager that the applicant complies with the requirements of § 112.08 as to being a qualified corporation or organization; and

(11) Any other information deemed necessary by the Manager to undertake consideration of the application.

(1993 Code, § 1000.05)

§ 112.06 CONSIDERATION OF APPLICATION; PUBLIC HEARING.

The provisions of §§ 111.001 through 111.014 shall apply to all licenses required by § 112.04 and to the holders of the licenses, provided that all licenses shall be granted or denied by the City Council and the Department of Public Safety, if required by state law. The City Council shall conduct a public hearing on the application for a new on-sale intoxicating liquor license within a reasonable period following receipt of a complete application and completion of the investigation required by § 112.05. A notice of the date, time, place, and purpose of the hearing shall be published once in the official newspaper not less than 10 days before the date of the hearing. After hearing the oral and written views of all interested persons, the City Council shall make its decision at the same meeting or at a specified future meeting. No hearing shall be required for the renewal or the transfer of an on-sale intoxicating liquor license.

(1993 Code, § 1000.06)

§ 112.07 FEES.

(A) *Application fee.* The annual license application fee shall be the amount set forth in Chapter 33. When a new wine license or on-sale intoxicating liquor license is issued for a portion of a year, the annual license application fee shall be prorated at the rate of 1/12 of the license fee per month or portion of a month remaining in the license year at the time of application. The annual license application fee for a wine license or for an on-sale intoxicating liquor license may be refunded, less costs incurred by the city as determined by the City Manager, in the event that the application is withdrawn by the applicant or denied by the City Council.

(B) *Refunds.* A monthly pro-rata share of the annual license fee for a wine license or an on-sale intoxicating liquor license issued pursuant to this subchapter may be refunded, less the cost of issuance as determined by the City Manager, if:

- (1) The business permanently ceases to operate;

(2) The license is transferred to a new licensee in accordance with § 112.13 and the city receives a license fee for the remainder of the license term from the transferee; or

(3) A premises licensed to sell wine receives an on-sale intoxicating liquor license prior to the expiration of the wine license. In this instance, a pro-rata share of the wine license fee may be refunded.

(C) *Investigation fees.* Upon application for a new or the transfer of an existing wine license, on-sale intoxicating liquor license, on-sale 3.2% malt liquor license, or off-sale 3.2% malt liquor license, the applicant shall deposit \$500 with the city for the investigation fee. If the investigation requires an out-of-state investigation, an additional \$2,000 shall be deposited before further processing of the application by the city. The City Manager may from time to time require the deposit of additional investigation fees up to the limits provided herein before further processing of the application if the cost of investigation exceeds the amounts previously deposited. The cost of the investigation shall be based on the expense involved, but in no event shall it exceed \$500 if the investigation is limited to the state or \$10,000 if outside the state. All deposited monies not expended on the investigation shall be refunded to the applicant. All investigative expenses incurred in excess of the deposit shall be paid prior to consideration of the license application by the City Council. Investigation fees for license renewal shall not exceed \$200 unless there is a change of ownership of more than 10% cumulatively over the then existing license period.
(1993 Code, § 1000.07)

§ 112.08 PERSONS INELIGIBLE FOR LICENSE.

(A) The following restrictions apply to any applicant who is a natural person, a general partner if the applicant is a partnership, or a corporate officer if the applicant is a corporation.

(B) No license shall be granted to:

(1) Any manufacturer, brewer, or wholesaler as defined in M.S. § 340A.101, as it may be amended from time to time, or any manufacturer of 3.2% malt liquor, or to any person who has a financial interest, directly or indirectly, in the manufacturer, brewer or wholesaler;

(2) Any person under the state established legal drinking age;

(3) Any person convicted of any willful violation of any law of the United States or any provision of state law or this code with regard to the manufacture, sale, or distribution of liquor;

(4) Any person not eligible under M.S. § 340A.402, as it may be amended from time to time, or the regulations of the Department of Public Safety;

(5) Any person who has:

(a) Been convicted, within the 5 years prior to the application for a license, of any violation of any law of the United States, the state, or any other state or territory, or of any local ordinance with regard to: the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor or other controlled substances as defined by state statute; gambling; theft; or vice; or

(b) Had an intoxicating liquor license, including a wine on-sale license, revoked for any violation of any statutes, ordinances or regulations relating to the manufacture, sale, distribution or possession of liquor or wine.

(6) Any person who has applied for or holds a federal wholesale or retail liquor dealer's special stamp or a federal or state gambling or gaming stamp or license;

(7) Any person who is an employee or elected official of the city;

(8) Any person who has falsified any information given either in the application or in the process of investigation;

(9) Any person who upon renewal, has been found in violation of any provision of this subchapter or applicable state law;

(10) If an individual, any person who is not a U.S. citizen or resident alien;

(11) Any person who is financially indebted to a person who is disqualified under this section;

(12) If for a temporary on-sale 3.2% malt liquor license, any person who is not a charitable, religious, or other nonprofit corporation or organization in existence at least 3 years. No corporation or organization shall be granted more than 3 licenses in a 12-month period and there shall be at least 30 days between the license issue dates; and

(13) If for a temporary wine license, any person who is not a charitable, religious, or other nonprofit corporation or organization in existence at least 3 years. No corporation or organization shall be granted more than 3 licenses in a 12-month period and there shall be at least 30 days between the license issue dates.

(1993 Code, § 1000.08)

§ 112.09 PLACES INELIGIBLE FOR A LICENSE.

(A) *General restrictions.* No off-sale or on-sale license shall be granted or renewed for:

(1) Any property on which taxes, assessments, or other financial claims of the state, county or city are due, delinquent, or unpaid;

(2) Any property on which the business is to be conducted is owned by a person who is ineligible for a license pursuant to § 112.08;

(3) Any property located within 300 feet of a place of worship or an elementary, junior high or senior high school having a regular course of study accredited by the state. A location which holds a license under this subchapter shall not be declared ineligible for license renewal or transfer due to a place of worship or school that was newly located in its proximity after license issuance. The provisions of this division (A)(3) shall not apply to temporary on-sale 3.2% malt liquor licenses or temporary wine licenses;

(4) Any property where a license issued under this subchapter has been revoked during the preceding year unless the issuance of the license is unanimously approved by the City Council then present;

(5) Any property where the conduct of the business is prohibited by Chapter 152;

(6) Any property not eligible under M.S. § 340A, as it may be amended from time to time, and the regulations of the Department of Public Safety; and/or

(7) Any property used as a sexually-oriented business as defined by Chapter 110.

(B) *Off-sale 3.2% malt liquor licenses.* In addition to the requirements of division (A) above, no off-sale 3.2% malt liquor license shall be granted to any theater, recreation establishment, public dancing place, or establishment holding any on-sale license.

(C) *On-sale 3.2% malt liquor licenses.* In addition to the requirements of division (A) above, no on-sale 3.2% malt liquor license shall be granted for establishments other than restaurants, golf courses, bowling centers, and hotels. The provisions of this division (C) do not apply to temporary on-sale 3.2% malt liquor licenses.

(D) *Wine licenses.* In addition to the requirements of division (A) above, no wine license shall be granted to any establishment other than a restaurant located in the Commercial District.

(E) *On-sale intoxicating liquor licenses.* In addition to the requirements of division (A) above, no on-sale intoxicating liquor license shall be granted to any establishment other than a restaurant or hotel located in the Commercial District.

(1993 Code, § 1000.09)

§ 112.10 GENERAL RESTRICTIONS; CONDITIONS OF SALE.

(A) *Conduct.* Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of sobriety and order.

(B) *Age.* No wine or liquor shall be sold to any person under the state established legal drinking age, or to an intoxicated person, directly or indirectly.

(C) *Underage workers.* No person under the age of 18 shall serve or sell liquor or wine.

(D) *Gambling and prostitution.* No licensee shall keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises, or in any room adjoining the licensed premises controlled by the licensee, any slot machines, dice, or other gambling equipment as defined in M.S. § 349.30, as it may be amended from time to time, nor permit any gambling therein, nor permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under licensee's control, to be used as a resort for prostitutes or other disorderly persons; provided, however, that lawful gambling may be carried on if allowed by this code and where allowed by a license issued pursuant to M.S. § 349, as it may be amended from time to time, or this code.

(E) *Manufacturer or distiller of malt liquor.* No equipment or fixture in any licensed place shall be owned in whole or in part by any manufacturer or brewer, as defined in M.S. § 340A, as it may be amended from time to time, of wine or liquor.

(F) *Open to inspection.* All licensed premises shall be open to inspection by any police officer or other designated officer or employee of the city at any time there are persons within the licensed premises.

(G) *Hours of sale.* The hours and days of sale shall be as set forth in M.S. § 340A.504, as it may be amended from time to time, except that:

(1) Establishments holding a wine license or an on-sale intoxicating liquor license under this subchapter may not sell liquor or wine between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday and after 1:00 a.m. on Sundays, except as provided by division (G)(2) below; and

(2) Establishments holding a wine license under this subchapter or establishments holding both an on-sale intoxicating liquor license and a Sunday on-sale license under this subchapter may sell intoxicating liquor or wine in conjunction with the sale of food between the hours of 8:00 a.m. Sundays and 1:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota Clean Air Act. (Amd. Ord. 2016-03, passed 05-24-16)

(H) *Hours of consumption.* No liquor or wine shall be consumed by any person on, in, or about a licensed premises more than 30 minutes following the time established by this section for cessation of the sale of wine or liquor.

(I) *No liquor or wine in non-licensed food establishments.* Except as permitted by a license issued pursuant to this subchapter, no person shall take or carry any wine or liquor into any food establishment.

(J) *Mixing or sale for mixing prohibited.* Except as permitted by a license issued pursuant to this subchapter, no person shall mix with liquor or wine or sell for the purpose of mixing with liquor or wine, any soft drink, other liquor or beverage in any food establishment.

(K) *Illegal to permit mixing.* Except as permitted by a license issued pursuant to this subchapter, no person shall consume, or permit the consumption, mixing or spiking of any beverage by adding to the same any liquor, in any building or place operated as a food establishment. The fact that any person in any food establishment, sold any liquid or beverage to a person who thereupon and therein added to the liquid or beverage any liquor or wine shall be prima facie evidence that the liquid or beverage was sold by the person for the purpose of adding liquor or wine and shall be prima facie evidence that the person and the person's employer permitted the mixing or spiking of the liquid by adding wine or liquor.

(L) *Bottle clubs prohibited.* Except as permitted by a license issued pursuant to this subchapter, establishments or clubs that directly or indirectly allow the consumption or display of wine or liquor, or knowingly serve any liquid for the purpose of mixing with liquor or wine, shall be prohibited. Permits for bottle clubs issued by the Department of Public Safety under M.S. § 340A.414, as it may be amended from time to time, shall not be approved by the City Council.

(M) *Posting of license.* A license issued under this subchapter shall be posted in a conspicuous place in the licensed premises.

(N) *Compact and contiguous premises.* A license issued under this subchapter is only effective for the compact and contiguous space specified in the approved license application. No sales or consumption of wine or liquor shall be permitted beyond the licensed premises. The licensed premises shall not be increased in size or seating capacity during the then license period.

(O) *Sobriety and order.* A licensee shall be responsible for the conduct of business being operated and shall maintain conditions of sobriety and order.

(P) *Adult entertainment prohibited.* The findings, purpose, and objectives of Chapter 110 are hereby incorporated by reference. No licensee shall permit any specified sexual activities, the presentation or display of any specified anatomical areas or the conduct of a sexually oriented business all as defined by Chapter 152 on the licensed premises or in areas adjoining the licensed premises where the activities or the conduct of such a business can be seen by patrons of the licensed premises.

(Q) *State law.* All applicable provisions of state law shall be complied with in connection with the sale of wine and liquor.

(1993 Code, § 1000.10) Penalty, see § 10.99

§ 112.11 SPECIAL REQUIREMENTS FOR THE ON-SALE OF 3.2% MALT LIQUOR.

In addition to the requirements imposed by § 112.10, the following special requirements apply to the on-sale of 3.2% malt liquor.

(A) *Place of serving and consumption.* 3.2% malt liquor sold pursuant to an on-sale 3.2% malt liquor license shall be served and consumed at tables in the dining or refreshment room on the licensed premises and shall not be consumed or served at bars; provided, the same may be consumed or served at the following locations:

- (1) At counters where food is regularly served and consumed;
- (2) On decks, patios, and other outdoor dining areas which are adjacent to the licensed premises; and
- (3) On grounds of a golf course.

(B) *Temporary licenses.* The provisions of division (A) above do not apply to 3.2% malt liquor sold pursuant to a temporary 3.2% malt liquor license.
(1993 Code, § 1000.11) Penalty, see § 10.99

§ 112.12 SPECIAL REQUIREMENTS FOR THE ON-SALE OF WINE, INTOXICATING MALT LIQUOR, AND INTOXICATING LIQUOR.

In addition to the requirements of § 112.10, the following special requirements apply to the sale of wine, intoxicating malt liquor, and intoxicating liquor sold pursuant to a wine license or and on-sale intoxicating liquor license issued in accordance with this subchapter.

(A) *Licensed premises.* The licensed premises must:

- (1) Have an exclusive entrance from and exit to the exterior of the building in which the licensed premises is located or to a public concourse or public lobby, and have a physical barrier separating the licensed premises from other areas so as to prevent the passing of patrons other than through the required entrances and exits;
- (2) Have adequate space for the storage, preparation, and handling or service of food, wine, and liquor; and
- (3) The premises shall not have more than 15% of its seating capacity located at a bar or service counter.

(B) *Alcohol awareness training.*

(1) Within 30 days following the issuance of a new wine license or a new on-sale intoxicating liquor license, not less than 75% of the employees authorized to serve or sell wine or liquor on the licensed premises shall have completed an alcohol awareness program approved by the Chief of Police.

(2) Not less than 75% of the employees authorized to serve or sell wine or liquor on the licensed premises must complete an alcohol awareness program approved by the Chief of Police within 90 days prior to an application for license renewal for a wine license or a on-sale intoxicating liquor license.

(C) *Percentage of food sold.* Not less than 50% of the restaurant's or hotel's gross receipts from the combined sale of food, non-alcoholic beverages, wine and liquor, on an annual basis, shall be attributable to the sale of food and non-alcoholic beverages.

(D) *Limit of alcohol strength.* No wine over 14% alcohol by volume may be sold or consumed on a premises holding a wine license.

(E) *Denied sales or consumption.* No sales or consumption of wine or liquor shall be permitted beyond the licensed premises.

(F) *Container volume restrictions.* Wine may not be sold, served, or consumed in containers larger in volume than 1 liter.

(G) *Diluting, changing, or tampering with wine or liquor prohibited.* No licensee shall sell, offer for sale or keep for sale, wine or liquor in any original package that has been refilled or partly refilled. No licensee shall directly or through any other person, dilute, or in any manner tamper with, the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of any wine in the original package differing in composition, alcoholic content or type from the wine received from the manufacturer or wholesaler from whom it was purchased shall be prima facie evidence that the contents of the original package have been diluted, changed or tampered with.

(H) *Sales in hotels.* No sale of wine or liquor shall be made to or in guest rooms of hotels unless:

(1) The rules of the hotel provide for the service of meals in guest rooms;

(2) The sale of the wine and liquor is made in the manner which conforms to the requirements of § 112.12;

(3) The sales is incidental to the regular service of meals to guests in their rooms; and

(4) The rules of the hotel and the description, location, and number of the guest rooms are fully set out in the license application.

(1993 Code, § 1000.12)

§ 112.13 RESTRICTIONS ON TRANSFER OF LICENSE.

(A) No license shall be transferred to any person or premises by the person or from the premises to whom and for which the license was granted, by any means whatsoever, including, without limitation, devise or descent or involuntarily by the operation of law, without the person and premises to whom and to which the license is to be transferred having first submitted an application containing all of the information required in an original application, and complying with all requirements for an original license, and receiving the approval of the City Council, and where required, the Department of Public Safety. Any change in the persons named in the original application or any change in the information in the original application shall be deemed a transfer for the purposes of this subchapter.

(B) Provided, however, the following changes shall not be deemed a transfer:

(1) A change in the ownership of a limited partnership comprising 10% or less cumulatively of the limited partnership during the then license period;

(2) A change in ownership of a corporation comprising 10% or less cumulatively of the stock owners during the then license period; or

(3) A change in 1 of the corporation's officers during the term of the then license. Provided, however, the corporation shall give notice of a change in officer to the City Manager and the new officer shall comply with all requirements of this section and §§ 111.001 through 111.014.

(1993 Code, § 1000.13)

§ 112.14 VIOLATIONS.

(A) *Compliance checks and inspections.* All licensed premises shall be open to inspection by the Police Department or other authorized city official during regular business hours. At least once per year, the city shall conduct compliance checks by engaging, persons over the age of 18 and less than 21 years, to enter the licensed premises to attempt to purchase intoxicating or 3.2% malt liquor. Persons used for

the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Persons used for compliance checks shall not be guilty of unlawful possession of intoxicating or 3.2% malt liquor when the items are obtained as a part of the compliance check. No person used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all minors lawfully engaged in a compliance check shall answer all questions about the person's age asked by the licensee or the licensee's employee and shall produce any identification, if any exists, for which the person is asked. Nothing in this subchapter shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

(B) *Hearing notice for revocation or suspension of license.* Revocation or suspension of a license by the City Council shall be preceded by public hearing conducted in accordance with M.S. §§ 14.57 through 14.69, as they may be amended from time to time. The City Council may appoint a hearing

examiner or may conduct a hearing itself. The hearing notice shall be given at least 10 days prior to the hearing, include notice of the time and place of the hearing, and state the nature of the charges against the licensee.

(C) *Grounds for revocation or suspension of license.* The City Council may suspend or revoke any license for the sale of intoxicating liquor or 3.2% malt liquor for any of the following reasons:

(1) False or misleading statements made on a license application or renewal, or failure to abide by the commitments, promises or representations made to the City Council;

(2) Violation of any special conditions under which the license was granted, including, but not limited to, the timely payment of real estate taxes, and all other charges;

(3) Violation of any federal, state, or local law regulating the sale of intoxicating liquor, 3.2% malt liquor, or controlled substance;

(4) Creation of a nuisance on the premises or in the surrounding area;

(5) That the licensee suffered or permitted illegal acts upon the licensed premises or on property owned or controlled by the licensee adjacent to the licensed premises, unrelated to the sale of intoxicating liquor or 3.2% malt liquor;

(6) That the licensee had knowledge of illegal acts upon or attributable to the licensed premises, but failed to report the same to the police;

(7) Expiration or cancellation of any required insurance, or failure to notify the city within a reasonable time of changes in the term of the insurance or the carriers; and/or

(8) Failure of an establishment granted a license to exhibit satisfactory progress toward completion of construction within 6 months from its issuance, or failure of an establishment to operate for a period of 6 months. A hearing shall be held to determine what progress has been made toward opening or reopening the establishment and, if satisfactory progress is not demonstrated, the City Council may revoke the license.

(D) *Presumptive civil penalties.* The purpose of this subchapter is to establish a standard by which the City Council determines the length of license suspensions and the propriety of revocations, and shall apply to all premises licensed under this chapter. These penalties are presumed to be appropriate for every case; however, the City Council may deviate in an individual case where the City Council finds that there exist substantial reasons making it more appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the state or city to prevent the sale of alcohol to minors. When deviating from these standards, the City Council will provide written findings that support the penalty selected.

(1) The minimum penalties for convictions or violations must be presumed as follows (unless specified, numbers below indicate consecutive days' suspensions):

| <i>Type of Violation</i> | <i>Appearance</i> | | | |
|---|-------------------|---------------|--------------|---------------|
| | <i>First</i> | <i>Second</i> | <i>Third</i> | <i>Fourth</i> |
| Commission of a felony related to the licensed activity | Revocation | N/A | N/A | N/A |
| Sale of liquor while license is under suspension | Revocation | N/A | N/A | N/A |
| Sale of liquor to underage persons | \$500 | 6 days | Revocation | N/A |
| Sale of liquor to obviously intoxicated person | \$500 | 6 days | 18 days | Revocation |
| After hours sale of liquor | \$500 | 6 days | 18 days | Revocation |
| After hours display or consumption of liquor | \$500 | 6 days | 18 days | Revocation |
| Refusal to allow city inspectors or police admissions to inspect premises | \$500 | 15 days | Revocation | |
| Illegal gambling on premises | \$500 | 6 days | 18 days | Revocation |
| Failure to take reasonable steps to stop person from leaving premises with liquor (does not apply to off-sale 3.2% malt liquor license) | \$500 | 6 days | 18 days | Revocation |
| Sale of intoxicating liquor where only license is for 3.2% malt liquor | Revocation | N/A | N/A | N/A |

(2) The City Council may impose a 3-day suspension for failure to pay the required fine on the first appearance.

(E) *Multiple violations.* At a licensee's first appearance before the City Council, the court must act upon all of the violations that have been alleged in the notice sent to the licensee. The City Council in that case must consider the presumptive penalty for each violation under the first appearance column in division (D) above. The occurrence of multiple violations is grounds for deviation from the presumed penalties in the City Council's discretion.

(F) *Subsequent violations.* Violations occurring after the notice of hearing has been mailed, but prior to the hearing, must be treated as a separate violation and dealt with as a second appearance before the City Council, unless the City Manager and licensee agree in writing to add the violation to the first appearance. The same procedure applies to a second, third, or fourth appearance before the City Council.

(G) *Subsequent appearances.* Upon a second, third, or fourth appearance before the City Council by the same licensee, the City Council must impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, the City Council may consider the amount of time elapsed between appearances as a basis for deviating from the presumptive penalty imposed by this subchapter.

(H) *Computation of appearances.* After the first appearance, a subsequent appearance by the same licensee will be determined as follows.

(1) If the first appearance was within 18 months of the current violation, the current violation will be treated as a second appearance.

(2) If a licensee has appeared before the City Council on 2 previous occasions, and the current violation occurred within 30 months of the first appearance, the current violation will be treated as a third appearance.

(3) If a licensee has appeared before the City Council on 3 previous occasions, and the current violation occurred within 42 months of the first appearance, the current violation will be treated as a fourth appearance.

(4) Any appearance not covered by divisions (H)(1), (H)(2), or (H)(3) above will be treated as a first appearance.

(I) *Other penalties.* Nothing in this section shall restrict or limit the authority of the City Council to suspend up to 60 days, revoke the license, or impose a civil fine not to exceed \$2,000 for each violation, to impose conditions, or impose any combination of the foregoing sanctions, or take any other action in accordance with law; provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for in this section.

(1993 Code, § 1000.14)

§ 112.15 LIMIT ON NUMBER OF ON-SALE INTOXICATING LIQUOR LICENSES.

At any 1 time there shall not be more than 4 on-sale intoxicating liquor licenses issued by the city.
(1993 Code, § 1000.15) (Am. Ord. 2015-03)

§ 112.16 INCORPORATION BY REFERENCE.

The provisions of M.S. Chapter 340A, as it may be amended from time to time, which are referenced in this subchapter, are hereby adopted and incorporated by reference and made a part of this subchapter, including all regulations of the Department of Public Safety which relate to the incorporated provisions of M.S. Chapter 340A, as it may be amended from time to time.

(1993 Code, § 1000.16)

MUNICIPAL LIQUOR**§ 112.30 DEFINITIONS.**

The words used in this subchapter will have the meanings given them in M.S. § 340A.101, as it may be amended from time to time, and the term ***LIQUOR***, as used in this code, means ***INTOXICATING LIQUOR***, as defined in M.S. § 340A.101, as it may be amended from time to time.
(1993 Code, § 1010.01)

§ 112.31 STORES ESTABLISHED.

There are hereby established municipal stores for the on-sale and off-sale of liquor.
(1993 Code, § 1010.02)

§ 112.32 LOCATION AND OPERATION.

The stores will be located at places determined by the City Council and as authorized by state law.
(1993 Code, § 1010.03)

§ 112.33 LIQUOR FUND.

A Municipal Liquor Fund is hereby created. All revenues received from the operation of the city's liquor stores will be deposited in that fund. All ordinary operating expenses of the stores will be paid from the fund. Surpluses accumulated in the fund may be transferred, by resolution of the City Council, to the general fund or to any other appropriate fund to be expended for municipal purposes. The handling of the municipal liquor receipts and disbursements must comply with the procedures prescribed by law for receipt and disbursement of municipal funds generally.
(1993 Code, § 1010.04)

§ 112.34 HOURS OF OPERATION.

The hours of operation of city liquor stores will comply with M.S. § 340A.504, as it may be amended from time to time. The city liquor stores will not be open for business of any kind during the hours when sales of intoxicating liquor are prohibited.
(1993 Code, § 1010.05)

§ 112.35 OPERATION AND RESTRICTIONS.

(A) *Credit.* No alcoholic beverages may be sold on credit.

(B) *Minors.* No city liquor store may be operated in violation of M.S. § 340A.503, as it may be amended from time to time, pertaining to persons under 21 years of age.

(C) *Intoxicated persons.* No person may sell, give, furnish, or in any way procure for another alcoholic beverages for the use of an obviously intoxicated person.
(1993 Code, § 1010.06)

CHAPTER 113: PEDDLERS AND SOLICITORS

Section

- 113.01 Definitions
- 113.02 Exceptions to definitions
- 113.03 Licensing; exemptions
- 113.04 License ineligibility
- 113.05 License suspension and revocation
- 113.06 License transferability
- 113.07 Registration
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§ 113.01 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personnel property that the person is carrying or otherwise transporting. The term **PEDDLER** shall mean the same as the term “hawker.”

PERSON. Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

REGULAR BUSINESS DAY. Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as **REGULAR BUSINESS DAYS**.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term "canvasser."

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any 1 location for more than 14 consecutive days.

§ 113.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms **PEDDLER**, **SOLICITOR**, and **TRANSIENT MERCHANT** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of **PEDDLERS**, **SOLICITORS**, and **TRANSIENT MERCHANTS**, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under § 113.07. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas.

§ 113.03 LICENSING; EXEMPTIONS.

(A) *County license required.* No person shall conduct business as a peddler, solicitor or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Chapter 329, as it may be amended from time to time, if the county issues a license for the activity.

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 113.07.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Manager. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) Full address of applicant's permanent residence;
- (5) Telephone number of applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent;
- (7) Full address of applicant's regular place of business (if any);
- (8) Any and all business related telephone numbers of the applicant;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days);

(12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;

(13) A statement as to whether or not the applicant has been convicted within the last 5 years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;

(14) A list of the 3 most recent locations where the applicant has conducted business as a peddler or transient merchant;

(15) Proof of any requested county license;

(16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;

(17) A general description of the items to be sold or services to be provided;

(18) All additional information deemed necessary by the City Council;

(19) The applicant's driver's license number or other acceptable form of identification; and

(20) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the ordinance establishing fees and charges, adopted pursuant to this code, as it may be amended from time to time.

(E) *Procedure.* All applications will require criminal history data as described in Section 111.002 subsection C. Within 30 days after receipt of the completed application and the criminal history background has been completed, the Police Department will make a written report and recommendation to the City Council as to the issuance or non-issuance of the license. If the City Manager denies the license, the applicant must be notified in writing of the decision, the reason for denial and of the applicant's right to appeal the denial by requesting, within 20 days of receiving a notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(Am. Ord. 2012-08, passed 10-23-2012)

(F) *Duration.* An annual license granted under this chapter shall be valid for 1 calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, press, religion, and the like, except that this exemption may be lost if the person's exercise of constitutional rights is merely incidental to a commercial activity.

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

(Am. Ord. 2009-008, passed 6-23-2009) Penalty, see § 10.99

§ 113.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

(A) The failure of the applicant to obtain and show proof of having obtained any required county license;

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application;

(C) The conviction of the applicant within the past 5 years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

(D) The revocation within the past 5 years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant; and

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than 3 complaints against the applicant with the Better Business Bureau, the Attorney General's office, or other similar business or consumer rights office or agency, within the preceding 12 months, or 3 complaints filed against the applicant within the preceding 5 years.

§ 113.05 LICENSE SUSPENSION AND REVOCATION.

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

- (1) Fraud, misrepresentation, or incorrect statements on the application form;
- (2) Fraud, misrepresentation, or false statements made during the course of the licensed activity;
- (3) Conviction of any offense for which granting of a license could have been denied under § 113.04; and/or
- (4) Violation of any provision of this chapter.

(B) *Multiple persons under 1 license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) *Public hearing.* Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Manager within 10 regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within 3 regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) above.

(F) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

Penalty, see § 10.99

§ 113.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

Penalty, see § 10.99

§ 113.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 113.03, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term ***DOOR-TO-DOOR ADVOCACY*** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Manager shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be nontransferable.

Penalty, see § 10.99

§ 113.08 PROHIBITED ACTIVITIES.

No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

(A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure;

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;

(C) Conducting business in a way as to create a threat to the health, safety, and welfare of any individual or the general public;

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.;

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person;

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person; and/or

(G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

Penalty, see § 10.99

§ 113.09 EXCLUSION BY PLACARD.

No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least 4 inches long and 4 inches wide with print of at least 48-point in size stating “No Peddlers, Solicitors, or Transient Merchants,” or “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES

Chapter

130.GENERAL OFFENSES

131.DRUGS AND THE LIKE

CHAPTER 130: GENERAL OFFENSES

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GENERAL OFFENSES

§ 130.01 DISORDERLY CONDUCT.

The following are deemed disorderly conduct and are prohibited:

(A) *Exposure.* Willfully and lewdly exposing his or her person, or procuring another to expose himself or herself, any open and gross lewdness or lascivious behavior, or any act of public indecency;

(B) *Nudity.* Appearing in a street or other public or exposed place in a state of nudity or in any indecent or lewd dress;

(C) *Abuse of animals.* Inhumanly, unnecessarily, cruelly, or wantonly beating, injuring, or otherwise abusing an animal;

(D) *Defacement of school property.* Marking with ink, paint, chalk, or other substance, or posting handbills on, or in any other manner defacing or injuring any public, private, or parochial school building or structure used or usable for school purposes, or marking, defacing, or injuring fences, trees, lawns, or fixtures appurtenant to or located on the site of school buildings, or posting handbills on school fences, trees, or fixtures, or placing a sign anywhere on any school property without the approval of school authorities;

(E) *Breach of peace on school grounds.* Willfully or maliciously making or assisting in making on any school grounds or on property adjacent to any school building or structure any noise, disturbance or improper diversion or activity by which peace, quiet, and good order may be disturbed; and

(F) *Offensive language and conduct on school property.* Using offensive, obscene, or abusive language or engaging in boisterous or noisy conduct tending to arouse alarm, anger, or resentment in others on any school property.

(1993 Code, § 1115.01) Penalty, see § 10.99

§ 130.02 INJURY TO PUBLIC PROPERTY.

No person may willfully or maliciously displace, remove, injure, damage, or destroy a:

(A) Street, highway, or bridge;

(B) Monument designating a boundary line;

(C) Public sign;

(D) Telephone, cable television, or electric line;

(E) Gas or water line; and/or

(F) Sewer drain, pipe, or connection.
(1993 Code, § 1120.01) Penalty, see § 10.99

§ 130.03 OBSTRUCTION OF PUBLIC ACCESS.

No person may obstruct any public street, highway, sidewalk, or any other public place or building, or the access to property abutting the same, by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic, or pedestrians.
(1993 Code, § 1125.01) Penalty, see § 10.99

§ 130.04 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for 4 primary reasons:

- (1) To protect the public from illegal acts of minors committed during the curfew hours;
- (2) To protect minors from improper influences that prevails during the curfew hours, including involvement with gangs;
- (3) To protect minors from criminal activity that occurs during the curfew hours; and
- (4) To help parents control their minor children.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY ERRAND. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or Fire Department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

OFFICIAL CITY TIME. The time of day as determined by reference to the master clock used by the Police Department.

PLACES OF AMUSEMENT, ENTERTAINMENT or REFRESHMENT. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

PRIMARY CARE or **PRIMARY CUSTODY.** The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.

SCHOOL ACTIVITY. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) *Hours.*

(1) *Minors under the age of 12 years.* No minor under the age of 12 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, during weekdays after 9:00 p.m., official city time; and after 10:00 p.m. on weekends, official city time.

(2) *Minors ages 12 years to 14 years.* No minor between the ages of 12 years and 14 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, during weekdays after 10:00 p.m., official city time; and after 11:00 p.m. on weekends, official city time.

(3) *Minors ages 15 years to 17 years.* No minor between the ages of 15 years and 17 years shall be in or upon the public streets, alleys, parks, playgrounds, or other public grounds, public places, public buildings, nor in places of amusement, entertainment, or refreshment; nor in or upon any vacant lot, during weekdays after 11:00 p.m., official city time; and after midnight on weekends, official city time.

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work;

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor;

(5) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion;

(6) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence; and/or

(7) To a minor who is married or has been married, or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless 1 of the exceptions to this section applies.

(H) *Defense.* It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(I) *Before arrest.* A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.

Penalty, see § 10.99

WEAPONS**§ 130.15 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

WEAPON. Any of the following:

(1) Any firearm, including any device from which is propelled any missile, projectile, or bullet by means of explosives, gas, compressed air, springs, or elastic material, including air and “BB” guns;

(2) Dagger, dirk, or stiletto;

(3) Saber or sword;

(4) Switchblade knife, spring blade knife, or any knife the blade of which can be opened by gravity or a flick of the wrist;

(5) Blackjack, sand club, sap, pipe club, bludgeon;

(6) Chain club or chains assembled or used or intended to be used as a weapon;

(7) Artificial knuckles or other objects designed to be worn over the fist or knuckles;

(8) Throwing device with cutting or pointed edges;

(9) Japanese or other nightstick, nutcracker, nunchaku, chaka, flail, karate stick, morning star;

(10) Slingshot; and/or

(11) Spear or lance.
(1993 Code, § 1110.01)

§ 130.16 POSSESSION PROHIBITED.

No person may have a weapon in his or her possession, custody, or control in a public place, in the residence of another without their permission, or in the passenger compartment of a motor vehicle, unless in compliance with § 130.17.

(1993 Code, § 1110.02) Penalty, see § 10.99

§ 130.17 TRANSPORTATION OF WEAPON.

A weapon may be transported in a motor vehicle only if it is:

(A) A firearm which is unloaded and in a gun case expressly made to contain a firearm, and the case fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened, and without any portion of the firearm exposed, or an unloaded firearm in the closed trunk of the motor vehicle;

(B) A weapon other than a firearm which is in the closed trunk of a motor vehicle; or

(C) A handgun carried in compliance with M.S. §§ 624.714 and 624.715, as they may be amended from time to time.
(1993 Code, § 1110.03) Penalty, see § 10.99

§ 130.18 DISCHARGE OF FIREARM.

No person in any public or private place may shoot or discharge any firearm, as defined in this subchapter, whether it is loaded with powder, blank cartridges, or any other explosive, bullet, pellet, or shot, without prior authorization from the Chief of Police.
(1993 Code, § 1110.04) Penalty, see § 10.99

§ 130.19 EXCEPTIONS.

This subchapter does not apply to the discharge of a firearm in the lawful defense of person, property or family, or in the necessary enforcement of law. This subchapter does not apply to law enforcement officers, military personnel while on duty, or to possession of handguns or pistols permitted under M.S. §§ 624.711 through 624.717, as they may be amended from time to time.
(1993 Code, § 1110.05)

§ 130.20 CONFISCATION.

Any weapon adjudged by any court of competent jurisdiction to have been worn, carried, possessed, used, or handled in violation of this subchapter or state statute may be confiscated and disposed of by the Chief of Police. The Chief of Police may provide for the sale, destruction, or other disposition of the weapon.
(1993 Code, § 1110.06)

§ 130.21 USE OF BOW AND ARROW.

It is unlawful for any person to shoot a bow and arrow in the city, except in the physical education program of a school supervised by a member of the school's faculty, or in a community-wide supervised class or event specifically authorized by the Chief of Police. (1993 Code, § 1110.07) Penalty, see § 10.99

OBSCENITY**§ 130.35 OBSCENE MATERIALS PROHIBITED.**

It is unlawful for any person, knowing or with reason to know its content and character, to manufacture, issue, sell, offer to sell, give away, provide, lend, rent, deliver, transfer, transmit, publish, distribute, circulate, disseminate, publicly present, exhibit, or advertise any obscene material. (1993 Code, § 1150.01) Penalty, see § 10.99

§ 130.36 OBSCENE PERFORMANCES PROHIBITED.

It is unlawful for any person knowingly to produce, present or direct an obscene play, dance, motion picture, video or audio reproduction, or other obscene exhibition or performance, or to participate in a portion thereof which is obscene or which contributes to its obscenity. (1993 Code, § 1150.02) Penalty, see § 10.99

§ 130.37 DEFINITION.

For purposes of this subchapter, the word ***OBSCENE*** and the other terms defined in M.S. § 617.241, as it may be amended from time to time, have the meaning given them in M.S. § 617.241, as it may be amended from time to time. The term ***OBSCENE MATERIAL*** includes devices designed and marketed as useful primarily for stimulation of the human genital organs. (1993 Code, § 1150.03)

§ 130.38 REQUIRED FINDINGS.

In determining that a work is obscene, the trier of fact must find:

(A) That the work depicts or describes sexual conduct in a patently offensive way;

(B) That to the average person, applying contemporary community standards, the dominant theme of the work, taken as a whole, appeals to the prurient interest in sex; and

(C) That the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.
(1993 Code, § 1150.04)

§ 130.39 RESEARCH AND STUDY.

The provisions of this subchapter do not apply to persons who may possess or distribute obscene works or participate in conduct otherwise proscribed by this subchapter when the possession, participation, distribution, or conduct occurs in the course of law enforcement activities.
(1993 Code, § 1150.05)

GARBAGE AND SOLID WASTE OFFENSES

§ 130.50 DISPOSAL REQUIREMENTS.

One of the following provisions must be made for each property in the city for the disposal of garbage and other solid waste:

(A) Regular collection service by a hauler licensed by the city;

(B) Participation in a sharing or pool for a regular collection service by a hauler licensed by the city; or

(C) Lawful disposal by transporting the solid waste to a place of business owned or controlled by the property owner.
(1993 Code, § 1155.01) Penalty, see § 10.99

§ 130.51 SCAVENGERS.

It is unlawful for any person, except a law enforcement officer acting in the course of official business, to scavenge or otherwise collect refuse, recyclable materials or yard waste at the curb or from refuse containers or from recyclable materials containers without a license therefore from the city and an account relationship with the owner or occupant of the premises. Responsibility for and ownership of recyclable materials shall remain with the individual resident until collected by a licensed hauler or recyclable materials, at which time the ownership and responsibility shall pass to the hauler.
(1993 Code, § 1155.02) Penalty, see § 10.99

RESTRICTIONS ON THE DISCHARGE OF CONSUMER FIREWORKS**§ 130.65 PROHIBITED ACTS.**

The use, display, possession, discharge, or sale of any fireworks not expressly permitted by M.S. § 624.20, Subd. 1(c), as it may be amended from time to time, is strictly prohibited. (1993 Code, § 1170.01) Penalty, see § 10.99

§ 130.66 PERMITTED ACTS; LIMITATIONS.

(A) The use, display, or discharge of permitted consumer fireworks must be conducted in a manner that minimizes the risk of fire or injury to other persons or property.

(B) The use, display, or discharge of those non-explosive, non-aerial pyrotechnic entertainment devices only containing the limited amounts of pyrotechnic chemical compositions described in and permitted by M.S. § 624.20, Subd. 1(c), as it may be amended from time to time, hereinafter “consumer fireworks,” is strictly prohibited in the area on, below, above, or within or in close proximity to:

(1) Public property, including schools, parks, sidewalks, roadways, streets, rights-of-way, highways, alleys, bicycle and pedestrian paths, schools, lakes, rivers, and waterways located in whole or in part within the city limits;

(2) Private property within the city limits that has conspicuously posted a written sign or notice that no fireworks discharge is allowed;

(3) Within 500 feet of any premises on which consumer fireworks are held for sale, display, distribution, or storage; and/or

(4) Any property, area, structure, or material that by its physical condition or the physical conditions in which it is set would constitute a fire or personal safety hazard. (1993 Code, § 1170.02) Penalty, see § 10.99

CHAPTER 131: DRUGS AND THE LIKE

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CONTROLLED SUBSTANCES**§ 131.01 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONTROLLED SUBSTANCE. As defined in M.S. Chapter 152, as it may be amended from time to time.
(1993 Code, § 1135.01)

POSSESSION. Having a controlled substance on one's person or in constructive possession, including, but not limited to, constructive possession by an owner of a motor vehicle, or by a driver of a motor vehicle if the owner is not present, or keeping a controlled substance in a motor vehicle or allowing it to be kept in the motor vehicle.
(1993 Code, § 1135.02)

§ 131.02 PROHIBITED ACTS.

No person may manufacture, possess, constructively possess, sell, give away, barter, exchange, distribute, or otherwise transfer any controlled substance, except by way of a lawful prescription by a person licensed by law to prescribe and administer controlled substances.
(1993 Code, § 1135.03) Penalty, see § 10.99

§ 131.03 EXCEPTIONS.

Section 131.02 does not apply to the exceptions listed in M.S. §§ 152.0974, 152.11, or 152.12, as they may be amended from time to time, or to the following in the ordinary course of their lawful trade, business, or profession:

(A) Warehouse operators authorized by law to store controlled substances;

(B) Persons engaged in transporting controlled substances as an agent or employee of an authorized practitioner, pharmacist, manufacturer, warehouse operator, wholesaler, or common carrier;

(C) Public officers or public employees in the performance of official duties requiring possession or control of controlled substances, or persons aiding the officers or employees in the performance of the duties;

(D) A patient using controlled substances in accordance with prescribed treatment;

(E) Persons who procure, possess or use controlled substances for the purpose of lawful research, teaching or testing, and not for sale; and

(F) Lawfully licensed and registered hospitals or bona fide clinics or other institutions for treatment of sick or injured persons or animals.
(1993 Code, § 1135.04)

§ 131.04 UNLAWFUL PROCURING PURCHASE, DELIVERY, OR POSSESSION.

No person may procure, purchase, deliver, or possess, or attempt to procure, purchase, deliver, or possess, a controlled substance by:

(A) Fraud, deceit, misrepresentation, or subterfuge;

(B) Forgery or alteration of a prescription;

(C) Concealment of a material fact;

(D) Use of a false name or address;

(E) False statement in any prescription, order, report, or record relative to a controlled substance;

(F) Falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, warehouse operator, pharmacist, practitioner, or other person described in § 131.03; and/or

(G) Making, issuing, or uttering any false or forged prescription.
(1993 Code, § 1135.05) Penalty, see § 10.99

§ 131.05 CONFISCATION AND DISPOSITION.

Any controlled substance found in the possession of any person convicted of a violation of this subchapter will be confiscated and forfeited to the Chief of Police.
(1993 Code, § 1135.06)

§ 131.06 USE OF ORIGINAL CONTAINERS AND LABELS REQUIRED.

A patient having possession of a controlled substance by lawful prescription must keep the controlled substance in the original container in which it was delivered until used in accordance with the prescription, and may not remove the pharmacist's original label identifying the prescription.
(1993 Code, § 1135.07) Penalty, see § 10.99

§ 131.20 POSSESSION OF SMALL AMOUNT OF MARIJUANA.

(A) *Prohibited act.* Except as otherwise provided in division (B) below, it is unlawful for any person to possess a small amount of marijuana, as defined in division (D) below, except when the possession is for the person's use and is authorized by law.

(B) *Medical exceptions.* The provisions of M.S. §§ 152.0974, 152.11, and 152.12, as they may be amended from time to time, are made a part of this subchapter, and apply as lawful exceptions.

(C) *"Marijuana" defined.* For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MARIJUANA. Marijuana as defined in M.S. § 152.01, Subd. 9, as it may be amended from time to time.

MARIJUANA AND DRUG PARAPHERNALIA

(D) “*Small amount*” defined. For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SMALL AMOUNT. 1.5 ounces or less of the nonresinous form of marijuana.

(E) *Possession in a motor vehicle.* It is unlawful for a person who is the owner of a motor vehicle, or the driver of the motor vehicle if the owner is not present, to possess or knowingly keep or allow to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers more than .05 ounce of marijuana. The prohibited area does not include the trunk of the vehicle but does include the utility or glove compartment.

(F) *Violations.*

(1) *Possession of small amount; first conviction.* Any person who violates the provisions of division (A) above is guilty of a petty misdemeanor.

(2) *Possession of small amount; second conviction.* Any person who, after being convicted for possession of a small amount of marijuana under division (A) above, is subsequently convicted for the same offense within 2 years after the first conviction is guilty of a misdemeanor.

(3) *Possession in motor vehicle.* Any person who violates the provisions of division (E) above is guilty of a misdemeanor.

(G) *Discharge and dismissal.* The provisions of M.S. § 152.18, as it may be amended from time to time, are made a part of this subchapter and apply to violations of this subchapter.

(H) *Forfeiture.* All marijuana which has been possessed in violation of this subchapter is subject to forfeiture and may be seized without process when the seizure is made incident to an arrest or pursuant to a search warrant.

(1993 Code, § 1140.01) Penalty, see § 10.99

§ 131.21 DRUG PARAPHERNALIA.

- (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) Advertising Prohibited: It is unlawful for any person to place or cause to be placed in any newspaper, magazine, handbill, or other publication any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any violation of this subsection is a misdemeanor.
- (D) 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 M.S. 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, mannite, 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 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, and also 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, such as 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; and
13. Ice pipes or chillers.

(l) 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.

(E) Drug Paraphernalia Guidelines: In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all the 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 the owner, or of anyone in control of the object, under any state of federal law relating to any controlled substance;
- (3) The proximity of the object in time and space to the 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 that 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, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object 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 its use; and
- (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.

(F) *Other terms.* The terms “controlled substance,” “manufacturing,” “marijuana,” and “person” will have the meanings set forth in M.S. § 152.01.

(Ord. Amend. 2014-03; 9-3-2014)

CLANDESTINE DRUG LAB SITES**§ 131.35 PURPOSE AND INTENT.**

The purpose of this subchapter is to reduce public exposure to health risks associated with hazardous chemicals or residue from a clandestine drug lab site. Professional testing and investigations show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings, and equipment of surrounding structures. The City Council finds that the sites and the personal property within the sites may contain suspected chemicals and residues that place people, particularly children or adults of childbearing age, at risk when exposed through inhabiting or visiting the site or being exposed to contaminated personal property. (1993 Code, § 1175.01)

§ 131.36 INTERPRETATION AND APPLICATION.

The provisions of this subchapter must be construed to protect the public health, safety, and welfare. When the conditions imposed by this subchapter conflict with comparable provisions imposed by another law, ordinance, statute, or regulation, the regulations that are more restrictive or that impose higher standards will prevail. (1993 Code, § 1175.02)

§ 131.37 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHEMICAL DUMP SITE. A place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.

CITY. The City of St. Anthony.

CLANDESTINE DRUG LAB OPERATION. The unlawful manufacture or attempt to manufacture a controlled substance.

CLANDESTINE DRUG LAB SITE or SITE. A place or area where law enforcement personnel have determined that conditions associated with an unlawful clandestine drug lab operation exists. A **CLANDESTINE DRUG LAB SITE** may include dwellings, accessory buildings, structures or units, a chemical dumpsite, a vehicle, boat, trailer, or other appliance.

CONTROLLED SUBSTANCE. A drug substance or immediate precursor specified in M.S. § 152.02, Schedules I through V, as they may be amended from time to time. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

MANUFACTURE. In places other than a pharmacy, includes the production, cultivation, quality control, or standardization, by mechanical, physical, chemical or pharmaceutical means, and the packaging, re-packaging, tableting, encapsulating, labeling, re-labeling, or filling of drugs, by any other process.

OWNER. A person, firm, corporation, or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer, or other location associated with clandestine drug lab site. Unless information is provided to prove otherwise, the owner of real property is deemed to be the property taxpayer of record in the Ramsey/Hennepin County files, and the owner of a vehicle, boat, or trailer is deemed to be the person listed as the owner on the most recent title to the vehicle, boat, or trailer.

(1993 Code, § 1175.03)

§ 131.38 DECLARATION OF PUBLIC HEALTH NUISANCE.

All dwellings, accessory structures, buildings, vehicles, boats, trailers, personal property, adjacent property or other locations, associated with a clandestine drug lab site are potentially unsafe due to health hazards and are declared to be a public health nuisance.

(1993 Code, § 1175.04)

§ 131.39 LAW ENFORCEMENT ACTION.

(A) Law enforcement authorities that identify conditions associated with a clandestine drug lab site that may place the public or occupants at risk for exposure to harmful contaminants and other associated conditions may:

(1) Promptly notify the appropriate municipal, child protection, and public health authority, the United States Drug Enforcement Administration, and the site owner about the site and the conditions found;

(2) Treat, store, transport, or dispose of all waste generated from the clandestine drug lab operation and found at the site in a manner consistent with the Minnesota Department of Health and Minnesota Pollution Control Agency Regulations;

(3) The appropriate county would issue a temporary declaration of public health nuisance for the affected site and post a copy of the declaration on all doorway entrances to the site or, in the case of bare land, in several conspicuous places on the property. This temporary declaration will expire after the city inspects the site and determines the appropriateness of issuing a permanent declaration of public health nuisance;

(4) Notify all people occupying the site that a temporary declaration of public health nuisance has been issued;

(5) Require all people occupying the site to immediately vacate the site, remove all pets from the site, and not return without written authorization from the city;

(6) Notify the occupants vacating the site that the personal property at the site may be contaminated with dangerous chemical residue; and

(7) Put locks on each doorway entrance to the site to prohibit people from entering the site without authorization.

(B) The notification of the people and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives.
(1993 Code, § 1175.05)

§ 131.40 SEIZURE OF PROPERTY.

When a clandestine drug lab site is inside a vehicle, boat, trailer, or other form of moveable personal property, law enforcement authorities must immediately seize it and not allow it to be transported except to a more secure location. All other requirements of this chapter must be followed as closely as possible given the specific type of property in which the site is discovered.
(1993 Code, § 1175.06)

§ 131.41 INSPECTION AND DECLARATION OF NUISANCE.

(A) *Generally.* Within 48 hours of notification that law enforcement authorities have determined the existence of a clandestine drug lab site, the city will contact the appropriate county and they must inspect the site. The county may then promptly issue a permanent declaration of public health nuisance and a “Do Not Enter-Unsafe to Occupy Order” for the affected site to replace the temporary declaration. A copy of the permanent declaration and order must be posted on all doorway entrances to the site or, in the case of bare land, in several conspicuous places on the property.

(B) *Abatement order.* After issuing the permanent declaration, the city must send written notice to the site owner ordering abatement of the public health nuisance. The abatement order must include the following:

- (1) A copy of the declaration of public health nuisance and “Do Not Enter-Unsafe to Occupy Order”;
- (2) Information about the potentially hazardous condition of the site;
- (3) A summary of the site owner’s and occupant’s responsibilities under this chapter; and
- (4) Information that may help the owner locate appropriate services necessary to abate the public health nuisance.

(C) *Notice to other parties.* The city must also mail a copy of the permanent declaration of public health nuisance and a copy of this section to the following parties at their last known addresses:

- (1) Occupants or residents of the site if known;
- (2) Neighbors in proximity to the site who may be affected by the conditions found;
- (3) The appropriate enforcement division of the United States Drug Enforcement Administration; and
- (4) Other city, state and local authorities, such as the city Public Works Department, the Minnesota Pollution Control Agency, the Minnesota Department of Health, and the Department of Natural Resources, that are known to have public and environmental protection responsibilities applicable to the situation.

(D) *Modification or removal of declaration.* The city may modify or remove the declaration of public health nuisance after the city receives documentation from a city-approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those to neighbors and potential occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

(1993 Code, § 1175.07)

§ 131.42 SITE OWNER’S RESPONSIBILITY TO ACT.

(A) Within 10 business days after the abatement order is mailed to the site owner, the owner must accomplish the following:

(1) Provide the city, in writing, with:

(a) Confirmation that all persons and their pets have vacated the site;

(b) The names of all children who the owner believes were residing at the site during the time period the clandestine drug lab is suspected to have been at the site; and

(c) Confirmation that the site will remain vacated and secured until the public health nuisance is completely abated, as required by this chapter.

(2) Contract with 1 or more city-approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current state guidelines:

(a) A detailed on-site assessment of contamination at the site, including the personal property in the site;

(b) Soil testing of the site and testing of all property and soil in proximity to the site which the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;

(c) A complete clean-up of the site (including the clean-up or removal of plumbing, ventilation systems, fixtures, and contaminated soil) or a demolition of the structures on the site and complete clean-up of the demolished site;

(d) A complete clean-up, or disposal at an approved dump site, of all personal property in the site that is found to have been affected by the conditions at the site;

(e) A complete clean-up of all property and soil in proximity to the site that is found to have been affected by the conditions at the site; and

(f) Remediation testing and follow-up testing, including testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced to allow safe human occupancy and use of the site, use of the personal property in it, and use of all property and soil in proximity to the site.

(3) Provide the city with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and

(4) Sign an agreement with the city establishing a clean-up schedule. The schedule must establish reasonable deadlines for completing all actions required by this subchapter for abatement of the public health nuisance. The city will consider practical limitations and the availability of contractors in approving the clean-up schedule.

(B) The owner must meet all deadlines established in the clean-up schedule. The owner must provide the city with written documentation of the clean-up, including a signed statement from a city-approved environmental hazard testing and cleaning firm that the site, all personal property in it, and all property and soil in proximity to the site is safe for human occupancy and use and that the clean-up was conducted in accordance with the most current state guidelines.
(1993 Code, § 1175.08) Penalty, see § 10.99

§ 131.43 SITE OWNER's RESPONSIBILITY FOR COSTS.

(A) The site owner is responsible for all costs of dealing with and abating the public health nuisance, including contractor's fees and the city's costs for services performed in connection with the clandestine drug lab site clean up.

(B) The city's costs may include:

- (1) Posting of the site;
 - (2) Notification of affected parties;
 - (3) Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;
 - (4) Expenses related to the recovery of costs, including the special assessment process;
 - (5) Laboratory fees;
 - (6) Clean-up services;
 - (7) Administrative fees;
 - (8) Legal fees; and
 - (9) Other associated costs.
- (1993 Code, § 1175.09)

§ 132 SITE OWNER's RESPONSIBILITY FOR COSTS.

§ 131.44 CITY ACTION AND RECOVERY OF COSTS.

(A) If the site owner fails to comply with any of the requirements of this subchapter, the city is authorized to take all reasonable actions necessary to abate the public health nuisance, including contracting with a city-approved environmental hazard testing and cleaning firm to complete the necessary clean-up. The city is also authorized to provide a copy of the declaration of public health nuisance to the holders of mortgage or lien interests in the affected site.

(B) If the costs to clean the site or to clean the personal property at the site are prohibitively high in relation to the value of the site or the personal property, the city is authorized to remove or demolish the site, structure or building and dispose of the personal property in it. These actions must be taken in accordance with the provisions of M.S. §§ 463.15 through 463.261, as they may be amended from time to time.

(C) If the city abates the public health nuisance, the city is entitled to recover all of its actual costs, plus an additional 25% of the costs for administrative expense, in addition to any other legal remedy. The city may recover costs by civil action against the site owner or by assessing the costs against the site as a lien against the property and certifying the same to Ramsey/Henepin County for collection in the same manner as ad valorem taxes and special assessments are collected. (1993 Code, § 1175.10)

§ 131.45 RECOVERY OF COSTS FROM PERSONS CAUSING DAMAGE.

Nothing in this subchapter limits the right of the site owner or the city to recover clean-up costs from the tenant or operators of the clandestine drug lab. (1993 Code, § 1175.11)

§ 131.46 ENTRY INTO OR ONTO THE SITE.

While a declaration of public health nuisance for a site is in effect and has been posted at the site, no person, other than a law enforcement officer or a person authorized by the city, is permitted to be inside or on a site.

(1993 Code, § 1175.12) Penalty, see § 10.99

§ 131.47 REMOVAL OF PERSONAL PROPERTY FROM THE SITE.

(A) While a declaration of public health nuisance for a site is in effect and has been posted at the site, no personal property may be removed from the site without prior written consent from the city.

(B) Consent to remove personal property may be granted at the reasonable discretion of the city, and only in cases of hardship after:

(1) A city-approved environmental hazard testing and cleaning firm has advised the city, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and

(2) The owner of the personal property agrees in writing that the owner:

(a) Is aware of the danger of using the contaminated property;

(b) Will thoroughly clean the property to remove all contamination before the property is used; and

(c) Releases and agrees to indemnify the city from all liability to the owner and third parties for injuries or damages alleged to have been caused by the contaminated property.
(1993 Code, § 1175.13)

§ 131.48 VIOLATIONS.

Any person convicted of violating any provision of this subchapter is guilty of a misdemeanor.
(1993 Code, § 1175.14) Penalty, see § 10.99

PREDATORY OFFENDERS

SECTIONS:

- 132.1 : Intent
- 132.2 : Definitions
- 132.3 : Prohibited Location of Residence
- 132.4 : Exceptions
- 132.5 : Penalties

132.1 : INTENT

It is the intent of this chapter to serve the city's compelling interest to promote, protect, and improve the health, safety, and general welfare of St. Anthony citizens by creating areas around locations where children are known to regularly congregate in concentrated numbers wherein certain predatory offenders are prohibited from establishing temporary or permanent residence.

132.2 : DEFINITIONS

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

DESIGNATED PREDATORY OFFENDER. Any person who has been categorized as a Level III predatory offender under Minnesota Statutes Section 244.052, a successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of re-offense.

PERMANENT RESIDENCE. A place where a person abides, lodges, or resides for 14 or more consecutive days.

TEMPORARY RESIDENCE. 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.

SCHOOL. A public or nonpublic elementary or secondary school

LICENSED CHILD CARE CENTER. A group child care center currently licensed by Ramsey County, Hennepin County, or the State of Minnesota.

PUBLIC PLAYGROUND. A city-owned, improved park or other outdoor area designed, equipped, and set aside primarily for children's play.

132.3 : PROHIBITED LOCATION OF RESIDENCE

A. It is unlawful for any designated predatory offender to establish a permanent or temporary residence within 1,000 feet of any school, licensed child-care facility, or public playground.

B. Measurement of Distance. For purposes of determining the minimum distance separation required by this chapter, 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 school, licensed child-care facility, or public playground.

132.4: EXCEPTIONS

A designated predatory offender residing within a prohibited area as described in 132.03 does not commit a violation of this chapter if any of the following apply:

- A. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes Sections 243.166 and 243.167 or a successor statute, prior to February 14, 2017;
- B. The person was a minor when they committed the offense and they were convicted as an adult;
- C. The person is a minor;
- D. The school, licensed child care center, or public playground within 1,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes Sections 243.166 and 243.167, or a successor statute;
- E. The residence is also the primary residence of the person's parents, grandparents, siblings, or spouse; or
- F. The residence is a property purchased, leased, or contracted with and licensed by the Minnesota department of corrections prior to February 14, 2017.

132.5: PENALTIES

Any person who violates this chapter shall be guilty of a misdemeanor. Each day that a person maintains a permanent or temporary residence in violation of this Code shall constitute a separate offense.

(Ord. 2017-02, Adopted 2-22-17)

TITLE XV: LAND USAGE

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CONSTRUCTION**
- 151. SUBDIVISION REGULATIONS**
- 152. ZONING CODE**
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CHAPTER 150: BUILDINGS, HOUSING, AND CONSTRUCTION

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BUILDING MOVERS

§ 150.001 BOND.

Any person applying for a permit to move a building into the city or relocating a building on a lot or tract of land may be required by the City Council to furnish the city with a surety bond to guarantee that any damaged public property, easements, streets, or utilities will be promptly and completely repaired or replaced in a manner satisfactory to the city at the expense of the applicant, and the reconstruction or remodeling of the structure to meet the requirements of this subchapter.

(1993 Code, § 1300.01)

§ 150.002 INSURANCE.

The applicant for a permit to move or relocate a building must provide the Building Inspector with a copy of sufficient and adequate insurance to protect the city and the public from any and all damages which may result either directly or indirectly from the moving or relocation of the building.

(1993 Code, § 1300.02)

§ 150.003 FEE.

At the time of filing an application for a permit to move a building, the applicant must pay the fee for the permit as set forth in Chapter 33.

(1993 Code, § 1300.03)

MINNESOTA STATE BUILDING CODE

§ 150.015 CODES ADOPTED BY REFERENCE.

The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to M.S. Chapter 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this subchapter. The Minnesota State Building Code is hereby incorporated in this section as if fully set out herein.

§ 150.016 APPLICATION, ADMINISTRATION, AND ENFORCEMENT.

(A) 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 M.S. § 16B.62, subdivision 1, when so established by this subchapter.

(B) The code enforcement agency of the City of St. Anthony is called Code Partners Inspection Service.

(C) This code shall be enforced by the Minnesota Certified Building Official designated by the City of St. Anthony to administer the code (M.S. 16B.65 subdivision 1).

§ 150.017 PERMITS AND FEES.

The issuance of permits and the collection of fees shall be as authorized in M. S. § 16B.62, subdivision 1. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the City of St. Anthony. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M. S. § 16B.70.

§ 150.018 VIOLATIONS AND PENALTIES.

A violation of the code is a misdemeanor (M.S. § 16B.69).

§ 150.019 BUILDING CODE OPTIONAL CHAPTERS.

(A) The Minnesota State Building Code, established pursuant to M.S. §§ 16B.589 to 16B.75 allows the City of St. Anthony to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

(B) The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for the City of St. Anthony.

(1) Chapter 1335, Flood Proofing Regulations, parts 1335.00600 to 1335.1200

(2) Appendix J (formerly K)

150.020 APPLICATION OF CHAPTER.

The provision of this section shall apply to all electrical installations in any construction, remodeling, replacement, or repair within or on public or private buildings and premises, except as specially provided by this Chapter and by Minnesota Statutes. The City of St. Anthony elects to provide for inspection of electrical installations within its jurisdiction as authorized by Minnesota Statutes 326B.103, Subd. 2.

150.021 ELECTRICAL INSPECTOR - QUALIFICATIONS AND APPOINTMENT

There is hereby created the office of Electrical Inspector. The person chosen to fill the office of Electrical Inspector shall be of good moral character, shall be possessed of such executive ability as is requisite for the performance of his duties, and shall hold a license as a master or journeyman electrician under Minnesota Statutes, Section 326B.31, Subd. 8 or 9. In accordance with Minnesota Statutes 326B. Subd. 3, the Inspector shall give a bond in the amount of \$1,000.00 conditioned upon the faithful performance of his or her duties. The Electrical Inspector shall receive as compensation, a sum equal to seventy-five percent (75%) of electrical permit fees.

150.022 ELECTRICAL PERMITS

No electrical installation in any construction, remodeling, replacement or repair, except minor repair work as defined in Chapter 3800.3500, Subp. 10 of the Minnesota Rules shall be made without first securing a permit therefore.

Permits shall be granted only to properly licensed electrical contractors who are registered and bonded by the State of Minnesota, except that such permit may be granted to a bona fide owner of a single family residential property, who intends to conduct such work on his/her said property and further who demonstrates to the satisfaction of the Electrical Inspector that he/she has sufficient knowledge to perform the required work.

150.023 PENALTIES

Any violation of this Chapter, including a failure to file a permit when required, shall be a misdemeanor violation subject to all penal provisions of this Code and the State Electrical Act. Any person who shall commence work of any kind for which a permit is required under the provisions of this Code without having first received the necessary permit therefore, shall, when subsequently receiving such permit, be required to pay double the fees provided in this Code.

150.024 ADOPTION OF STATE BOARD OF ELECTRICITY RULES AND REGULATIONS BY REFERENCE.

The Minnesota State Board of Electricity Rules Chapter 3800.3500 through 3800.3885, revised August 2009, and any future revisions, modifications, or amendments thereto, are hereby adopted by reference, except for fees which shall be established by City Council resolution. With regard to said rules adopted by reference, wherever the phrase "request for inspection" is used therein, substitute the words "apply for electrical permit, " and wherever the words "the Board" referring to the State Board of Electricity, are used therein, substitute the words "the City."

EXCAVATION

§ 150.030 EXCAVATION PERMIT REQUIRED.

It is unlawful for any person to excavate, tunnel, undermine, or in any manner cause to be made any excavation in or under the surface of any street, highway, sidewalk, alley, avenue, or other public right-of-way or easement in the city, or to place or leave any excavated material unless the person first obtains an excavation permit from the city.

(1993 Code, § 1310.01) Penalty, see § 10.99

§ 150.031 APPLICATION FOR PERMIT.

Written application for the issuance of an excavation permit must be made on forms provided by the City Manager. The permit will be issued only to a contractor who complies with §§ 111.230 through 111.236. The applicant must pay a fee in the amount set forth in Chapter 33 for the issuance of the excavation permit.

(1993 Code, § 1310.02)

§ 150.032 DUTY OF MANAGER.

The Manager may promulgate provisions to be included as a part of the excavation permit as the Manager deems necessary or advisable to protect the public from injury, to prevent damage to public or private property, and to minimize interference with the public use of the streets.

(1993 Code, § 1310.03)

§ 150.033 EMERGENCY ACTION.

A permit is not required prior to excavation in the event of any emergency in which a main, conduit, or utility facility in or under any street breaks, bursts, or otherwise is in the condition as to immediately endanger the property, life, health, and safety of individuals. However, the persons owning or controlling the facility shall thereafter apply for an excavation permit, and shall not proceed with permanent repairs without first obtaining an excavation permit.

(1993 Code, § 1310.04)

§ 150.034 NONCOMPLETION OR ABANDONMENT.

Work shall progress in an expeditious manner until completion. If work is not performed in accordance with the permit or this subchapter, or stops or is abandoned without due cause, the city may correct the work or fill the excavations and repair the street. The city may not take this action until after 6 hours' notice in writing to the holder of the permit of intent to do so. The entire cost to the city of the work will be a liability of and will be paid by the person to whom the permit was issued or the permittee's surety.

(1993 Code, § 1310.05) Penalty, see § 10.99

§ 150.035 INDEMNIFICATION.

The permittee will indemnify, keep, and hold the city, the City Council, and city employees free and harmless from liability on account of injury or damage to persons or property arising or growing out of the permittee's negligence in making any street excavation. In the event that a claim is made against the city, the permittee, upon notice to it by the city, will defend the city at the cost of the

permittee. If a final judgment is obtained against the city, either independently or jointly with the permittee, the permittee will pay the entire judgment with all costs and hold the city harmless of any costs or damages incurred.

(1993 Code, § 1310.06)

§ 150.036 EXEMPTION FROM FEE PAYMENT AND INSURANCE PROVISIONS.

The provisions of this subchapter requiring payment of a permit fee and evidence of public liability and property damage insurance do not apply to any excavation work carried on by the city or its employees, and utilities operating gas, electric or telephone facilities within the city.

(1993 Code, § 1310.07)

§ 150.037 REFUSAL OF PERMITS.

If any person refuses or neglects to comply with the provisions of this subchapter or of any permit, the City Manager may refuse to issue further permits to the person.

(1993 Code, § 1310.08)

SWIMMING POOLS

§ 150.050 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SWIMMING POOLS. Any structure, bathing chamber, or tank used for swimming or bathing, over 24 inches in depth, or with a surface area of more than 150 square feet, that is constructed above or below ground.

(1993 Code, § 1315.01)

§ 150.051 BUILDING PERMITS REQUIRED.

A building permit is required for the construction of or the alteration, remodeling, or addition of any improvement to a swimming pool. A separate building permit is required for any pump house, filter house, enclosure for the swimming pool or any structure erected in conjunction with a swimming pool. An applicant for the building permits shall make application on forms provided by the city and shall provide the Building Inspector with a complete set of plans and specifications of the proposed project,

together with the explanatory data relative to the design, operation, and maintenance of the swimming pool insofar as health and safety features are concerned, as required by this subchapter or as requested by the Building Inspector.

(1993 Code, § 1315.02) Penalty, see § 10.99

§ 150.052 LOCATION REQUIREMENTS.

(A) *With regard to utility lines.* No part of a swimming pool may be located closer than 10 feet (as measured from the ground surface) to any overhead or underground utility line of any type. For the purpose of determining the area in which no part of a swimming pool can be constructed, the centerline of any overhead or underground utility line will be projected to the ground surface and the 10-foot prohibited area will be measured parallel and on both sides of the projected centerline.

(B) *With regard to easements.* No part of a swimming pool may be located within any private or public utility, workway, drainage, or other easement.

(C) *With regard to lot lines.*

(1) *In R-1 and R-2 Districts.* No part of a swimming pool to be constructed on property zoned R-1 or R-2 may be located within 10 feet of any side or rear lot line; nor within 10 feet of any principal structure or frost footing. No swimming pool may be located in the front yard of any property zoned R-1 or R-2. The filter unit, pump, heating unit, and any other mechanical equipment must be located not less than 25 feet from any adjacent or nearby neighboring residential structure and not closer than 10 feet to any lot line.

(2) *In R-1A.* Swimming pools in the R-1A District must comply with the provisions of Chapter 152.

(3) *In R-3 and R-4 Districts.* No part of a swimming pool designed to be used in conjunction with R-3 and R-4 properties may be located within 50 feet of any side or rear lot line; nor within 10 feet of any principal structure or frost footing. No swimming pool may be located in the front yard of any multiple dwelling. The filter unit, pump, heating unit, and any other mechanical equipment must be located at least 50 feet from any adjacent or nearby residential structure and not closer than 40 feet to any lot line.

(1993 Code, § 1315.03) Penalty, see § 10.99

§ 150.053 SAFETY REQUIREMENTS.

Safety precautions must be at a minimum to comply with the following.

(A) All pools must be provided with safeguards to prevent children from gaining uncontrollable access. Safeguards must include a fence at least 6 feet in height designed to reasonably prevent uncontrolled access by children.

(B) All fence openings or points of entry into the pool area enclosure must be equipped with a gate, and all gates must be equipped with self-closing and self-latching devices placed so as to be inaccessible to small children. The gates must be locked at all times when the pool is not in direct use.

(1993 Code, § 1315.04) Penalty, see § 10.99

§ 150.054 LIGHTING REQUIREMENTS.

Lighting used in connection with swimming pools must be adjusted in a manner as not to interfere with the reasonable use of adjacent property.

(1993 Code, § 1315.05) Penalty, see § 10.99

§ 150.055 LOUD NOISE PROHIBITED.

Unreasonably loud noise in connection with the operation or use of a pool is prohibited.

(1993 Code, § 1315.06) Penalty, see § 10.99

§ 150.056 GRANTING PERMITS.

No building permit may be issued unless it meet the requirements of this subchapter. No permit may be issued until the Building Inspector is satisfied that the proposed swimming pool will not be a health hazard and is to be constructed in such a way so that its future use will not endanger the health, lives, or safety of any persons coming in contact with the swimming pool. All swimming pools, appurtenances, water supply and drainage systems, and other features must be constructed in conformity with the approved plans. If any deviations from the plans are desired, a supplementary plan covering that portion of the work involved must be filed for approval and must conform to the provisions of this subchapter.

(1993 Code, § 1315.07) Penalty, see § 10.99

§ 150.057 INSPECTION.

The Health Inspector is authorized to conduct any inspections necessary to ensure compliance with all provisions of this subchapter and has the right of entry at any reasonable hour to the swimming pool for this purpose.

(1993 Code, § 1315.08)

§ 150.058 EXISTING SWIMMING POOLS NOT REQUIRED TO BE MOVED.

No swimming pool or any other structure erected in conjunction with a pool existing as of 6-3-1982 will be required to be moved so as to comply with the location requirements of § 150.052. All other requirements contained in this subchapter are applicable to existing swimming pools, and structures erected in conjunction with the pools.

(1993 Code, § 1315.09)

FENCES**§ 150.070 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

FENCE. A partition, structure, wall, or gate erected as a dividing marker, barrier, enclosure, or visual obstruction, but excluding buildings and bushes, hedges, trees, and other living landscaping. (1993 Code, § 1320.01)

LOT. An area of land intended for occupancy or use as permitted in the zoning code, and otherwise meeting the requirements of the zoning code.

LOT LINE. The boundary line of a lot, except that where any portion of a lot extends into the public right-of-way line will be treated as the lot line.

LOT LINE, FRONT. The boundary of a lot which abuts a public or private street, and in the case of a corner lot it is the boundary to the front of the building's principal entrance.

LOT LINE, REAR. The boundary of a lot which is opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line will be deemed to be a line 10 feet within the lot, parallel to and at the maximum distance from the front lot line, for the purposes of determining setbacks.

LOT LINE, SIDE. Any boundary of a lot which is not a front lot line or a rear lot line.

YARD. The portion of a lot between a lot line, and a building on the lot.

YARD, EXTERIOR SIDE. A side yard which abuts a street or public right-of-way along the side lot line.

YARD, FRONT. The area extending along the full width of the lot between side lot lines from the street right-of-way line to the principal building on the lot.

YARD, INTERIOR SIDE. A side yard which abuts an adjacent side yard or backyard along the side lot line.

YARD, REAR. The area extending along the full width of the lot between the side lot lines from the rear lot line to the principal building on the lot.

YARD, SIDE. The area extending along the full depth of the lot between the front and rear lot lines from the side lot line to the principal building on the lot.

§ 150.071 BUILDING PERMITS REQUIRED.

A building permit is required for the construction or alteration of a fence, and for any additions to a fence. The permit must be obtained in the name of the owner of the property on which the fence is or will be located. Applications must be made on forms provided by the city. The applicant must provide the Building Inspector with a set of plans and specifications for the fence. Permit fees must be paid in accordance with Ordinance 33.061 of the City Code. (1993 Code, § 1320.02) Penalty, see §10.99

§ 150.072 REQUIREMENTS.

- (A) *Location.* Any fence constructed or altered after 6-3-1982 must be located entirely upon the private property of the owner to whom the building permit was issued. Ownership of the permit passes with ownership of the property. The fence must be set back a distance from the owner's property line sufficient to avoid encroachment onto adjoining private or public property or a public right-of-way.
- (B) *Abutting public property.* If a fence is or is to be adjacent to a street, alley, public right-of-way, or other public property, the city may require the applicant for the permit to locate and mark the property line abutting the public property by having a registered surveyor place permanent survey pins or stakes on the property line. If the survey information is not available and the applicant elects not to establish the property line by survey, the permit will not be issued unless the applicant signs an affidavit stating that the applicant is the owner of the premises upon which the fence exists or is to be located.
- (C) *Fence size.* All fence and wall heights shall be measured from the finished grade, except that the height of a railing, wall, fence, or screening affixed to a deck constructed on the ground but raised above ground level, will be measured from the elevation of the raised deck for that portion which is affixed to the raised deck. The grade at the fence line shall not be altered in any way that artificially increases the maximum permitted height of the fence.

(1) Residential Uses.

- a. *Front Yards.* No fence shall be over four (4) feet in height within a required front yard setback.
- b. *Side Yards.* No fence shall be over six (6) feet in height. A fence up to six (6) feet in height shall be allowed on corner lots along the corner side behind the nearest front corner of the principal building.
- c. *Rear Yards.* No fence shall be over six (6) feet in height.
- d. *Exemption.* Fence heights as listed above in §150.072, C, 1, a-c may be increased for the following types of fencing:
 1. *Sport Court Fencing.* Chain link fencing surrounding the sport court may extend up to ten (10) feet in height above the sport court surface elevation and shall be located in the rear yard only.
 2. *School Parking Lot/Recreational Fencing.* Chain link fencing surrounding the parking lot and/or associated with recreational space on a school property within a residentially zoned property shall not be bound by the restrictions of this section.

(2) Commercial/Industrial Uses.

- a. *Front Yards.* No fence shall be over six (6) feet in height within a required front yard setback. Fences may extend to a total height of eight (8) with a security arm for barbed wire if a conditional use permit is obtained.
- b. *Side Yards.* No fence shall be over six (6) feet in height. Fences may extend to a total height of eight (8) with a security arm for barbed wire if a conditional use permit is obtained.
- c. *Rear Yards.* No fence shall be over six (6) feet in height. Fences may extend to a total height of eight (8) with a security arm for barbed wire if a conditional use permit is obtained.

d.Exemption. Fence heights as listed above in §150.072, C, 2, a-c may be increased for the following types of fencing:

1. Sport Court Fencing. Chain link fencing surrounding the sport court may extend up to ten (10) feet in height above the sport court surface elevation and shall be located in the rear yard only.
2. Loading Docks. The height of screening (fencing) for loading docks within view from a public street or adjacent residential or public property shall not be less than ten (10) feet in height and shall have a minimum opacity of ninety percent (90%) unless otherwise approved by the City Council through the site plan review process. Fencing/screening materials used for screening of loading docks shall be comprised of a wall or fence that is harmonious with the primary structure.
3. Trash Containers. Trash dumpsters and other trash containers shall be screened on all four (4) sides using an enclosure that is a minimum of one (1) foot above the top of the container. The trash enclosure shall be constructed of materials that are harmonious with those of the principal structure and have a minimum opacity of ninety percent (90%) opacity. A gate or door of the trash enclosure shall be closed at all times except as needed to access the trash container.

(3) Recreation/Open Space Uses.

- a. The provisions of this Section shall not apply to any fence now erected or hereafter erected on land within the Recreation/Open Space Zoning District.

(D) *Traffic view.*

- (1) Vision Triangle at Streets. No fence shall be placed in such a manner as to materially impede vision between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline grades of the intersection of two streets such that a clear line of vision is possible of the intersecting street from a distance of twenty-five (25) feet along the edge of each street and the third side being a line connecting the other sides, unless otherwise required or approved by the Zoning Administrator or other Authorized Agent. All distances from county, state, and U.S. highways shall be approved by the applicable permitting authority as needed.
- (2) Vision Triangle at Alleys and Driveways. No fence shall be placed in such a manner as to materially impede vision between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline grades of the intersection of a street and alley or driveway such that a clear line of vision is possible of the intersecting street from a distance of fifteen (15) feet along the edge of the street and along the alley or driveway, and a third line connecting the other sides, unless otherwise required or approved by the Zoning Administrator or other Authorized Agent. All distances from county, state, and U.S. highways shall be approved by the applicable permitting authority as needed.

- (E) *Swimming pool fencing.* Fences or wall intended to serve as a swimming pool barrier shall comply with the provisions as outlined in §150.053.

§ 150.073 CONSTRUCTION AND MAINTENANCE.

Every fence must be constructed in a substantial manner and of substantial material, reasonably suitable for the purpose for which the fence is intended as listed in the criteria below. Any fence which is

dangerous by reason of its construction or state of disrepair or is otherwise injurious to public safety, health, or welfare is hereby declared to be a nuisance.

(1993 Code, § 1320.04) Penalty, see § 10.99

- (A) Fences and walls shall be constructed in a manner and of such materials that do not adversely affect the appearance of the neighborhood or adjacent property values. Fences shall not be constructed from poultry netting (chicken wire), welded wire, snow fence, branches, or materials originally intended for other purposes, unless upon the showing of a high degree of architectural quality achieved through the use of such materials, and prior approval is granted by the Zoning Administrator or other Authorized Agent.
- (B) Fences and walls hereafter erected shall be durable, weather resistant, rust proof, and easily maintained.
- (C) Fences shall have structural supports (posts/footings) as required by the Building Official.
- (D) Fences and walls shall be constructed of new or like new materials.
- (E) The finished appearance of fences and walls shall be constructed with the higher quality finish directed toward the exterior of the property if the visual quality of the fence or wall is not the same on both sides.
- (F) The framing and posts of wood, chain link, picket, stockade, and decorative metal fences shall face the inside of the parcel area fenced. The side of the fence considered to be the face (facing as applied to fence posts) shall face the abutting property.
- (G) No more than two (2) types of related fencing materials shall be used in any fence and wall.
- (H) Both sides of any fence or wall shall be maintained in a condition of reasonable repair and appearance by its owner and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private.
- (I) The property owner is responsible for providing proof of property line location.
- (J) Retaining walls shall not be placed within any drainage, utility or ponding easements unless also reviewed and approved by the City Engineer.

§ 150.074 PROHIBITIONS.

It is unlawful for any person to construct and maintain or allow to be constructed or maintained upon any property located within the city limits any barbed wire fence, unless otherwise authorized herein, spiked fence or any fence which is charged or connected with electrical current in a manner as to transmit current to a person or animal which might come in contact with the fence.

(1993 Code, § 1320.05) Penalty, see § 10.99

(Amended Ordinance 2013-01; September 10, 2013)

HOUSING MAINTENANCE AND OCCUPANCY**§ 150.085 PURPOSE.**

(A) The purpose of this subchapter is to protect the public health, safety, and general welfare. These general objectives include, among others, the following:

- (1) Protect the character and stability of residential areas within the city;
- (2) Correct and prevent housing conditions likely to adversely affect the well-being of persons occupying dwellings within the city;
- (3) Provide minimum standards for cooling, heating, sanitary equipment, light and ventilation;
and
- (4) Prevent the overcrowding, slums and blight, and preserve the value of land and buildings.

(B) It is not the intention of the city to intrude upon the contractual relationship between tenant and landlord, to intervene as an advocate of either party, to act as an arbiter, or to deal with complaints covered by this subchapter.

(1993 Code, § 1335.01) (Ord. 08-003, passed 4-22-2008)

§ 150.086 APPLICABILITY.

Every building and its premises used in whole or in part as a home or residence or as a residential accessory structure. If a provision of this subchapter is in conflict with state codes, the state codes will govern.

(1993 Code, § 1335.02) (Ord. 08-003, passed 4-22-2008)

§ 150.087 ADOPTION OF PROPERTY MAINTENANCE CODE.

The International Property Maintenance Code, the most current edition, as published by the International Code Council, is adopted by reference in its entirety, except as modified or amended in this subchapter. Nothing in this subchapter or the International Property Maintenance Code shall be construed to cancel, modify, or set aside any other provision of this code of ordinances.

(Ord. 08-003, passed 4-22-2008)

§ 150.088 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. A structure subordinate to a principal dwelling not authorized to be used for living or sleeping by human occupants.

APARTMENT BUILDING. A structure designed to accommodate 3 or more dwelling units.

COMPOSTING. Accumulation of yard waste to be decomposed.

DWELLING, DWELLING UNIT, PREMISES, or STRUCTURE. Deemed to be followed by the words “or any part thereof.”

DWELLING UNIT. A single residential accommodation intended for use as a domicile for 1 family. Where a private garage is structurally attached, it will be considered as part of the building in which the **DWELLING UNIT** is located.

DWELLING. Building, or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including 1-family dwellings, 2-family dwellings, apartment buildings and rooming units, but excluding hotels and motels.

ENFORCEMENT OFFICIAL. The City Manager and designated agents authorized to administer and enforce this subchapter.

FAMILY or HOUSEHOLD. One person or 2 or more persons each related to the others by blood, marriage, adoption, or foster care, or a group of not more than the owner of a residence plus 3 persons not so related occupying the residence and maintaining a common household and using common cooking and kitchen facilities.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, or consumption of food.

HABITABLE BUILDING. Any building or part thereof that meets minimum standards for a dwelling.

HABITABLE ROOM. Room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, toilet rooms, laundries, furnace rooms, unfinished basements (those without required ventilation, required electric outlets, and required exits), pantries, utility rooms of less than 50 square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces, workshops, and hobby and recreation areas in parts of the structure below ground level or in attics.

HEATED WATER. Water heated to a temperature of not less than 120EF, or the lesser temperature required by government authority, measured at faucet outlet.

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.

OCCUPANT. Any person (including owner or operator) living, sleeping, cooking, and eating in a dwelling unit or living and sleeping in a rooming unit.

OPERATOR. The owner or agent who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who owns a dwelling. Any person representing an owner must comply with the provisions of this subchapter to the same extent as the owner.

PERMISSIBLE OCCUPANCY. The maximum number of persons permitted to reside in a dwelling unit or rooming unit.

PERSON. An individual, firm, partnership, association, corporation, or joint venture or organization of any kind.

PREMISES. A parcel of land which includes a dwelling.

RECYCLABLES. Materials which may be recycled or reused through recycling processes, including metal beverage containers, glass, newsprint, plastic bottles with necks, corrugated cardboard, magazines, catalogs, phone books and any other materials designated as recyclables by City Council resolution.

REFUSE. All putrescible and non-putrescible waste solids, including garbage and rubbish.

RENTAL UNIT. A dwelling or dwelling unit let for rent or lease.

REPAIR. To restore to a sound and acceptable state of operation, serviceability, or appearance.

RODENT HARBORAGE. Any place where rodents can live, nest, or seek shelter.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking and eating purposes.

SAFETY. The condition of being reasonably free from danger and hazards which may cause accidents or disease.

SUPPLIED. Paid, furnished, or provided by, or under the control of, an owner or operator.

TOILET. A toilet, with a bowl and trap made in 1 piece, which is connected to the city water and sewer systems or other approved water supply.

(1993 Code, § 1335.03) (Ord. 08-003, passed 4-22-2008)

§ 150.089 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

No owner or other person may occupy or let to another person any dwelling, unless it and the premises are clean, sanitary, fit for human occupancy, and comply with all applicable requirements of the city code and state and federal laws and regulations.

(1993 Code, § 1335.04) (Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.090 REFUSE AND RECYCLABLES.

Every occupant must store and dispose of or recycle all refuse and recyclables in a clean, sanitary, and safe manner as prescribed by city ordinances. Every owner of an apartment building must supply facilities for the sanitary and safe storage and/or disposal or recycling of refuse and recyclables. The storage of refuse and recyclable collection items may not be kept in the front yard setback without approved screening or fencing.

(1993 Code, § 1335.07) (Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.091 WOOD STORAGE.

Wood used for fireplaces must be stacked in a location other than the front yard setback.

(1993 Code, § 1335.08) (Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.092 STORM AND SCREEN DOORS AND WINDOWS.

The owner of a rental unit is responsible for providing and hanging all screens and storm doors and storm windows required under this subchapter.

(1993 Code, § 1335.09) (Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.93 EQUIPMENT AND FACILITIES.

No person may occupy, or let to another for occupancy, any dwelling or dwelling unit which does not comply with all of the following:

(A) *Sump Pumps.*

(1) *Purpose.* The discharge of water from roofs, surfaces, groundwater sump pumps, footing tile, swimming pools, or other flow of precipitation into the city system results in flooding and overloading of the sanitary sewer system. When this water is discharged into the sanitary sewer system, it is treated at the sewage treatment plant, resulting in very large and needless expenditures. The City Council, therefore, finds it in the best interest of the city to prohibit such discharges.

(2) *Discharge prohibited.* No water from any roof, surface, groundwater sump pump, footing tile, swimming pool, or other flow of storm water shall be discharged into the sanitary sewer system. Dwellings and other buildings and structures which require, because of infiltration of water into basements, crawl spaces, and the like, a sump pump discharge system, may have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system. A permanent installation shall be one which provides for year round discharge capability to either the outside of the dwelling, building, or structure, or is connected to city storm sewer or discharge through the curb and gutter to the street. Inside piping shall be rigid pipe with fixed joints, pvc or equivalent.

(3) *Disconnection.* Before December 31, 1999, any person, firm, or corporation having a roof surface, groundwater sump pump, footing tile, or swimming pool now connected and/or discharging into the sanitary sewer system shall be disconnected from the sanitary sewer and redirected in an effective, professional manner. Unless inspected prior to then, they may have 45 days to make the disconnection.

(4) *Inspection.* Every person owning improved real estate that discharges into the city's sanitary sewer system shall allow an employee of the city or a designated representative of the city to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. In lieu of having the city inspect their property, any person may furnish a certificate from a licensed plumber certifying that their property is in compliance with this subchapter.

(5) *Correction period - Reinspection.* Properties which fail during the first inspection shall be re-inspected within 45 days to allow corrections to be completed. If property fails the re-inspection, the \$100 per month surcharge shall be imposed on every sewer bill until compliance is achieved.

(6) *Future inspections.* Each sump pump or sump pump basket installation identified will be re-inspected periodically.

(7) *New construction.* All new dwellings with sumps for which a building permit is issued after adoption of this subchapter, shall have a pump and shall be piped to the outside of the dwelling, in accordance with this subchapter, before a certificate of occupancy is issued.

(8) *Surcharge.* A surcharge of \$100 per month is hereby imposed on every sewer bill mailed, after a 30-day grace period following inspection or confirmed attempt at inspection, to property owners who are not in compliance with this subchapter or who have refused to allow their property to be inspected to determine if there is compliance. All properties found during periodic re-inspection to have violated this ordinance will be subject to the \$100 per month surcharge for all months between the two most recent inspections.

(9) *Winter discharge.* The City Manager's office is authorized to issue a permit to allow a property owner to discharge surface water into the sanitary sewer system. The permit shall authorize such discharge only from November 15 to March 15 and a property owner is required to meet at least one of the following criteria in order to obtain a permit:

(a) The freezing of the surface water discharge from the sump pump or footing drain is causing a dangerous condition, such as ice buildup or flooding, on either public or private property.

(b) The property owner has demonstrated that there is a danger that the sump pump discharge pipes will freeze up and result in either failure or damage to the sump pump unit or cause basement flooding.

(c) The water being discharged from the sump pump or footing drain cannot be readily discharged into a storm drain or other acceptable drainage system.

(B) *Manual and automatic check valves.* Check valves if necessary to prevent sewer back-flow. Prior to the closing of the sale of a dwelling, the seller shall request that a sanitary sewer line to the main street line be inspected for manual and automatic check valves. If the Compliance Officer determines that both manual and automatic check valves are necessary to prevent back-flow, the situation must be corrected before the dwelling is considered in compliance to be sold.

(Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.094 GENERAL REQUIREMENTS.

No person may occupy or let to another for occupancy any dwelling or dwelling unit which does not comply with the following:

(A) *Fence maintenance.* Fences may consist only of metal, wood, masonry, or other decay resistant material, maintained in good condition both in appearance and in structure, solely on the owner's property, with all wood material other than decay resistant varieties with paint or other preservatives. Painting is required if 25% or more of the exterior surface is unpainted or determined by the Compliance Official to be paint blistered, and repair is required if 25% or more of the exterior surface of the pointing of any brick, block or stone wall is loose or has fallen out. Posts and framework must face the owner's property, with the finished material facing the street or adjacent property.

(B) *Accessory structure maintenance.* Painting is required if 25% or more of the exterior surface is unpainted or determined by the Compliance Official to be paint blistered, the surface must be painted and repair is required. If 25% or more of the exterior surface of the pointing of any brick, block or stone wall is loose or has fallen out.

(C) *Grading and drainage.* Every yard, court, passageway and other portions of the premises must be graded and drained so as to be free of standing water. Draining cannot impact neighboring properties as specified in § 152.177(H).

(D) *Unit below grade.* No space located more than 4 feet below grade may be used as a habitable room of a dwelling unless approved by the Building Official.

(E) *Yard cover.* Every yard of premises on which a dwelling stands must be covered by lawns and/or ground cover of vegetation, gardens, hedges, shrubbery or related decorative materials and must be maintained. No land owner may permit or maintain on the land any growth of weeds, grass, brush or other rank vegetation to an average height greater than 6 inches, any accumulation of dead weeds, grass or brush, or any noxious weeds or plants as defined by the Minnesota Department of Agriculture.

(F) *Composting.* Composting is permitted only if:

(1) It is conducted in enclosed containers not over 5 feet in height with an aggregate volume of not more than 100 cubic feet, made of durable material such as wood, block or sturdy metal fencing located at least 5 feet from lot lines and no closer than 20 feet from any habitable building, other than the resident's own home, and no closer than 2 feet from any alley;

(2) Only organic yard materials, such as grass clippings, leaves, flowers, weeds, sawdust, wood ash, plant trimmings, straw and commercial composting material, are put in the compost containers;

(3) No meat, bones, fat, oils, dairy products or other kitchen wastes, whole branches, logs, plastics, synthetic fibers, human or pet wastes, or diseased plants are put in the containers; and

(4) Composting is managed to minimize odor and promote effective composition.

(G) *Trees and brush.* Trees and brush must be trimmed so as not to interfere with public walkway or right-of-way access or driving sightlines.

(H) *Discontinuance of service or facilities.* No owner, operator, or occupant may cause any service, facility, equipment or utility required under this subchapter to be removed from, shut off or discontinued, for any occupied dwelling, except for temporary emergencies and temporary interruptions necessary for repairs or alterations.

(I) *Temporary storage units.* Temporary storage units including dumpsters are permitted for no more than 120 days in a calendar year and must be maintained in good repair and appearance. One temporary storage unit is allowed at any residential property. Temporary storage units must be placed on paved surfaces and a minimum of 10 feet from all property lines.

(1993 Code, § 1335.17) (Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.095 MAXIMUM OCCUPANCY; MINIMUM SPACE; ACCESS.

No person may occupy or permit to be occupied any dwelling which does not comply with the following:

(A) *Maximum occupancy.*

| | <i>1-2 occupants</i> | <i>3-5 occupants</i> | <i>6 or more occupants</i> |
|--------------------|----------------------|---------------------------|----------------------------|
| <i>Living room</i> | No requirement | 120 square feet | 150 square feet |
| <i>Dining room</i> | No requirement | 80 square feet | 100 square feet |
| <i>Bedroom</i> | 70 square feet | 50 square feet per person | 50 square feet per person |

(1993 Code, § 1335.18) (Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.096 APPEAL.

When it is alleged by the owner or resident agent that the compliance order is based upon the erroneous interpretation of this subchapter, other applicable city code provisions or the International Property Maintenance Code, the owner or resident agent may appeal the compliance order to the City Council. Such appeal shall be in writing, must specify the grounds for the appeal, and must be filed with the City within 5 business days after service of the compliance order.

(Ord. 08-003, passed 4-22-2008)

RENTAL DWELLING**§ 150.120 PURPOSE.**

It is the purpose of this subchapter to protect the public health, safety and welfare of the community at large and the residents of rental dwellings in the City of St. Anthony and to ensure that rental housing in the city is decent, safe, and sanitary and is so operated and maintained as not to become a nuisance to the neighborhood or to come 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. Owners and operators are responsible to take such reasonable steps as necessary to ensure 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 noise, nuisance or annoyances; and free from unreasonable fears about safety of persons and security of property.

(Ord. 08-003, passed 4-22-2008)

§ 150.121 APPLICABILITY.

This subchapter applies to all rental dwellings in the city, including any accessory structures on the premises upon which the rental dwelling is located, such as garages and storage buildings. This subchapter does not apply to Minnesota Department of Health licensed rest homes, convalescent care facilities, licensed group homes, nursing homes, or condominium units as defined and governed by M.S. Chapters 515, 515A and 515B.

(Ord. 08-003, passed 4-22-2008)

§ 150.122 ADOPTION OF PROPERTY MAINTENANCE CODE.

The International Property Maintenance Code, current edition, as published by the International Code Council, is adopted by reference in its entirety, except as modified or amended in this subchapter. Nothing in this subchapter or the International Property Maintenance Code shall be construed to cancel, modify, or set aside any other provision of this code of ordinances.

(Ord. 08-003, passed 4-22-2008)

§ 150.123 ENFORCEMENT OFFICIAL.

The City Code Official and/or Deputy Code Official is authorized and directed to enforce all provisions of this subchapter, subject to review by the City Council.

(Ord. 08-003, passed 4-22-2008)

§ 150.124 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. A structure subordinate to a principal dwelling not authorized to be used for living or sleeping by human occupants.

APARTMENT BUILDING. A structure designed to accommodate 3 or more dwelling units.

COMPOSTING. Accumulation of yard waste to be decomposed.

DWELLING, DWELLING UNIT, PREMISES, or STRUCTURE. Deemed to be followed by the words "or any part thereof."

DWELLING UNIT. A single residential accommodation intended for use as a domicile for 1 family. Where a private garage is structurally attached, it will be considered as part of the building in which the dwelling unit is located.

DWELLING. Building, or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including 1-family dwellings, 2-family dwellings, apartment buildings and rooming units, but excluding hotels and motels.

ENFORCEMENT OFFICIAL. The City Manager and designated agents authorized to administer and enforce this subchapter.

FAMILY or HOUSEHOLD. One person or 2 or more persons each related to the others by blood, marriage, adoption, or foster care, or a group of not more than the owner or a residence plus 3 persons not so related occupying the residence and maintaining a common household and using common cooking and kitchen facilities.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, or consumption of food.

HABITABLE BUILDING. Any building or part thereof that meets minimum standards for a dwelling.

HABITABLE ROOM. Room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms toilet rooms, laundries, furnace rooms, unfinished basements, (those without required ventilation, required electric outlets and required exits), pantries utility rooms of less than 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.

HEATED WATER. Water heated to a temperature of not less than 120 degrees Fahrenheit, or such lesser temperature required by government authority, measured at faucet outlet.

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.

OCCUPANT. Any person (including owner or operator) living, sleeping, cooking and eating in a dwelling unit or living and sleeping in a rooming unit.

OPERATOR. The owner or agent who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who owns a dwelling. Any person representing an owner must comply with the provisions of this subchapter to the same extent as the owner.

PERMISSIBLE OCCUPANCY. The maximum number of persons permitted to reside in a dwelling unit or rooming unit.

PERSON. An individual, firm, partnership, association, corporation or joint venture or organization of any kind.

PREMISES. A parcel of land which includes a dwelling.

RECYCLABLES. Materials which may be recycled or reused through recycling processes, including metal beverage containers, glass, newsprint, plastic bottles with necks, corrugated cardboard, magazines, catalogs, phone books and any other materials designated as recyclables by City Council resolution.

REFUSE. All putrescible and non-putrescible waste solids including garbage and rubbish.

RENTAL UNIT. A dwelling or dwelling unit let for rent or lease in exchange for monetary payment or which is occupied by someone other than the owner for a period longer than 6 months.

REPAIR. To restore to a sound and acceptable state of operation, serviceability or appearance.

RODENT HARBORAGE. Any place where rodents can live, nest or seek shelter.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking and eating purposes.

SAFETY. The condition of being reasonably free from danger and hazards which may cause accidents or disease.

SUPPLIED. Paid, furnished or provided by, or under the control of, an owner or operator.

TOILET. A toilet, with a bowl and trap made in 1 piece, which is connected to the city water and sewer systems or other approved water supply.
(Ord. 08-003, passed 4-22-2008)

§ 150.125 RESPONSIBILITIES OF OWNER AND LANDLORD.

(A) *Owner responsible.* Every owner of a rental dwelling is responsible for violations of duties and obligations imposed by this subchapter even if the duty or obligation is also imposed on the occupant(s) of the rental dwelling, or even if the owner, by agreement, has imposed on the occupant(s) the duty of making sure that the rental dwelling complies with the requirements of this subchapter, applicable provisions of the city code and the International Property Maintenance Code.

(B) *Cleanliness.* Every owner of a rental dwelling is responsible for keeping that part of the premises which he or she occupies or controls in a clean, sanitary and safe condition in conformance with this subchapter, applicable provisions of the city code and the International Property Maintenance Code, including any shared or common areas in a multiple family dwelling.

(C) *Obtain license.* The owner or resident agent must obtain a license and pay all license fees as required by this subchapter before the rental dwelling may be rented.

(D) *Drives, parking, sidewalks.* The owner of an apartment building must provide and maintain effective illumination in all exterior parking lots and walkways, parking areas and driveways. Unless agreed upon, the owner of a property adjacent to walkways must use due diligence to keep the walk safe for pedestrians. No such owner or occupant may allow snow, ice, dirt or rubbish to remain on the walk longer than 12 hours after it has been deposited.

(E) *Discontinuance of service or facilities.* No owner, operator, or occupant may cause any service, facility, equipment or utility required under this subchapter to be removed from, shut off or discontinued, for any occupied dwelling, except for temporary emergencies and temporary interruptions necessary for repairs or alterations.

(Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.126 RESPONSIBILITIES OF OCCUPANT OR RENTER.

(A) *Access by owner.* Every occupant of a rental dwelling shall give the owner or resident agent access to his or her unit, and that part of the premises which he or she occupies or controls, at reasonable times for the purpose of inspections and maintenance, and making necessary repairs or alterations on the premises.

(B) *Cleanliness.* Every occupant of a rental dwelling is responsible for keeping his or her unit, and any part of the premises which he or she occupies or controls, in a clean, sanitary and safe condition in conformance with this subchapter, applicable provisions of the city code and the International Property Maintenance Code.

(C) *Disposal of garbage and recyclables.* Every occupant of a rental dwelling shall store and dispose of all his or her rubbish, garbage and waste in a clean, sanitary and safe manner. All rubbish, garbage, and waste must be collected by a hauler who is licensed by the city as required by §§ 111.215 through 111.219 of this code. The storage of refuse and recyclable collection containers may not be kept in the front yard setback without approved screening or fencing.

(Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.127 LICENSE REQUIRED.

It is unlawful to operate a rental dwelling in the city without first having obtained a license from the city. An owner must obtain a license for each rental dwelling. If the rental dwelling contains 2 or more units, and has a common owner and a common property identification number, the owner may obtain a single license for the rental dwelling.

(Ord. 08-003, passed 4-22-2008)

§ 150.128 LICENSE APPLICATION.

(A) The owner of a rental dwelling must submit an application for a license on forms and in the format provided by the city. The owner must give notice, in writing, to the city within 5 business days of any changes to the information contained in the license application. The application must include:

- (1) The owner's name, address, and telephone number, owning partners of a partnership, corporate officers if a corporation; or
- (2) The name and address of a person residing or having a business office in Hennepin or Ramsey County, and appointed by the owner as an agent for purposes of notices under this subchapter and for services of process upon the owner; or
- (3) The name and address of any managing operator or agent; or
- (4) The name and address of the contract for deed vendor if the rental dwelling is owned under a contract for deed; or
- (5) The legal address of the rental dwelling; and
- (6) The type and number of units within the rental dwelling; and
- (7) The height and the multiple dwelling in stories; and
- (8) The type of structure to be licensed (i.e. single-family, duplex, triplex); and
- (9) The exterior finish of the building.

(B) *Issuance and term.* Upon approval by the City Council, the City Clerk will issue a license to the owner of the rental dwelling. A license is personal to the owner of a specified rental dwelling. No license may be transferred to a purchaser of a multiple dwelling or to any other person or entity. If a rental dwelling is sold, the purchaser may not own or operate the rental dwelling without first obtaining the license provided for in this subchapter. A license will be valid for 1 year. If a license is issued during the year, the license will be prorated accordingly at the renewal time.

(Ord. 08-003, passed 4-22-2008)

§ 150.129 LICENSE FEES.

The owner must pay an annual license fee, the amount of which will be determined by the City Council. The fee schedule is located in Chapter 33 of this city code. The owner must submit the required fee along with the application for a new or renewal license. Applications for renewal license submitted after the license term expiration are subject to a penalty fee, which shall be determined from the time by the City Council.

(Ord. 08-003, passed 4-22-2008)

§ 150.130 ISSUANCE OF LICENSE.

(A) *Preliminary inspection and investigation.* Prior to issuing a license, the City Code Official will inspect the rental dwelling to determine compliance with this subchapter, the city code and the International Property Maintenance Code. The City Clerk will review the application for completeness and determine whether all real estate taxes and municipal utilities are paid and current.

(B) *Compliance order.* If the rental dwelling is not in full compliance with this subchapter, the city will provide the owner or resident agent with a compliance order pursuant to § 150.131. If the owner corrects the items in the compliance order within the specified period of time, the city will issue a license to the owner.

(C) *Unsafe or dangerous conditions.* No owner or resident agent may operate a rental dwelling, regardless of the type of license issued, if the Housing Inspector determines that a condition exists in or on the rental dwelling or premises that is unsafe or poses an imminent danger to the health or safety of the tenants or the public. Any determination by the Housing Inspector is subject to suspension or revocation of the license, criminal prosecution and any civil remedies available to the city.

(D) *Posting of license.* The owner shall post a copy of the license in the rental dwelling in a conspicuous place. In multiple dwelling units requiring a single license, the license shall be posted in a common area of the building such as a corridor, hallway or lobby. The posted license shall be framed with clear glass or plastic.

(E) *Renewal of license.* An owner may continue to rent a dwelling after the expiration day of the license provided the owner has filed with the city on or before June 30th, the appropriate renewal license application and license fee. The issuance of a license under this subchapter shall be considered a privilege and not an absolute right of the owner and shall not entitle the owner to an automatic renewal of the license. Allowing the owner to continue to rent while the renewal is being processed does not obligate the city to automatically renew the license.

(F) *Transfer of license.* Licenses are not transferable. Any change in the ownership of the rental dwelling requires a new license.

(G) *Resident agent required.* Owners of rental dwellings with 5 or more individual units appoint a resident agent who shall reside within the rental dwelling to be responsible for the maintenance and upkeep of the rental dwelling and common areas and to handle licensing issues with the city. Owners of rental dwellings containing fewer than 5 units who do not reside within the counties of Ramsey, Hennepin, Anoka, Carver, Dakota, Scott, Washington, Wright, Chisago, Isanti or Sherburne shall appoint an agent that resides within 1 of these counties that shall be the responsible resident agent.

(H) *Register of occupancy.* The owner or its resident agent shall keep a current register of occupancy for each rental dwelling. This register of occupancy may be reviewed by the city at the time. Said register of occupancy shall contain, at a minimum, the following information:

- (1) Address(es) of the rental dwelling;

- (2) Number of bedrooms of each unit;
 - (3) Number of units in each building; and
 - (4) Number of adults and children (under 18) currently occupying each unit.
- (Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.131 INSPECTIONS.

(A) *Inspections.* The city will inspect all rental dwellings periodically to determine compliance with this subchapter, the city code and the International Property Maintenance Code. After each inspection, the city shall provide the owner or resident agent with a compliance order pursuant to this section. The owner or resident agent must correct the violations within the time period specified in the compliance order. If the violations are not corrected, the city may suspend or revoke the license under this section, unless it is the initial license period, in which case, the license is valid until the end of the owner's existing lease with the current tenant as noted in this section. The city may, however, immediately suspend or revoke a license if an unsafe or dangerous condition exists as described in § 150.129(C).

(B) *Occupant initiated inspections.* An occupant who believes that his or her rental dwelling is not in compliance with the provision of this subchapter, city code or the International Housing Maintenance Code may provide written notice to the owner or resident agent of the rental dwelling specifying the alleged deficiency. If the owner or resident agent does not take action to correct the alleged problem the occupant may contact the city and request an inspection of the rental dwelling by the Housing Inspector upon showing proof that the owner or resident agent had been properly notified and has been given a reasonable time in which to correct deficiencies. The cost of the inspection shall be paid by the owner if the city's inspection reveals actual deficiencies as described by the occupant.

(Ord. 08-003, passed 4-22-2008)

§ 150.132 CONDUCT ON LICENSED PREMISES; VIOLATIONS.

(A) *Owner responsible.* It shall be the responsibility of the owner or resident agent to see that persons occupying the rental dwelling conduct themselves in such a manner as not to cause the premises to be disorderly. This section applies to all licenses. For purposes of this section, a rental dwelling is disorderly at which any of the following activities occur:

- (1) Violation of M.S. Chapter 609 Gambling, Prostitution and Disorderly Conduct;
- (2) Violation of M.S. Chapter 152 Controlled Substances;
- (3) Violation of M.S. Chapter 340A Sale & Consumption of Alcohol;
- (4) Violation of M.S. Chapter 624 Sale & Use of Weapons; or

(5) Violation of any of the provisions contained in Titles IX or XIII of this code.

(B) *City enforcement.* The City Code Official is responsible for enforcement of this section.

(C) *First violation.* Upon determination by the City Code Officer that a licensed premises was used in a disorderly manner, as described in division (A) of this section, the City Code Official must give notice to the licensee of the violation and direct the licensee to take steps to prevent further violations.

(D) *Second violation.* If another occurrence of disorderly use of the licensed premises occurs within 6 months of an incident for which a notice in division (C) of this section was given, the City Code Official must notify the licensee of the violation and must also require the licensee to submit a written report of the actions taken, and proposed to be taken, by the licensee to prevent further disorderly use of the premises. This written report must be submitted to the City Code Official within 5 days of receipt of the notice of disorderly use of the premises and must detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding 6 months.

(E) *Third violation.*

(1) If another instance of disorderly use of the licensed premises occurs within 1 year after any 2 previous instances of disorderly use for which notices were given to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended or not renewed. Written notification will be issued by the City Code Official. Such written notice must specify all violations of this section, and must state the date, time, place and purpose of the hearing. The hearing must be held no less than 10 days and no more than 60 days after giving such notice.

(2) Following the hearing, the City Council may deny, revoke, suspend or decline to renew the license for all or any part or parts of the licensed premises or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this section.

(F) *No adverse action pending eviction.* No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pending of eviction proceedings (unlawful detainer) or within 30 days of notice given by the licensee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings are not a bar to adverse license action, however, unless they are diligently pursued by the licensee. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures which will prevent further instances of disorderly use.

(G) *Finding of disorderly conduct.* A determination that the licensed premises have been used in a disorderly manner as described in division (A) of this section shall be made upon a fair preponderance of the evidence to support such a determination. It is not necessary that criminal charges be brought in order to support a determination of disorderly use nor does the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

(H) *Service of notices.* All notices given by the city under this section must be personally served on the licensee, sent by certified mail to the licensee's last known address or, if neither method of service effects notice, by posting on a conspicuous place on the licensed premises.

(I) *Enforcement actions.* Enforcement actions provided in this section are not exclusive, and the City Council may take any action with respect to a licensee, a tenant, or the licensed premises as is authorized by the city code, state or federal law.

(Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.133 CONDITION OF LICENSED PREMISES.

(A) *Compliance order.* Whenever the City Code Official determines that the condition of any rental dwelling or the premises surrounding it fails to meet the provisions of this subchapter, other applicable city code provisions or the International Property Maintenance Code, he or she may issue a compliance order setting forth the specific violations and ordering the owner to correct such violations.

(B) *Contents of the compliance order.* The compliance order shall:

- (1) Be in writing;
- (2) Describe the location and nature of the violations;
- (3) Set forth a reasonable time for the correction of the violations by the owner or resident agent; and
- (4) Be served upon the owner and resident agent either personally or by certified mail. A copy of the compliance order shall also be provided to the occupants of the rental dwelling.

(C) *License action.* If the violations listed in the compliance order are not remedied by the owner or resident agent within the specified time given in the order, the license for the rental dwelling may be denied, suspended, revoked, or not renewed by the city. An administrative fine in an amount set forth from time to time by the City Council by resolution may also be imposed. If the city decides that it will be denying, suspending, revoking or not renewing a license or imposing an administrative fine pursuant to this subchapter, the city shall send a notice of the proposed action to the owner and resident agent of the rental dwelling.

(D) *Appeal.* When it is alleged by the owner or resident agent that the compliance order is based upon the erroneous interpretation of this subchapter, other applicable city code provisions or the International Property Maintenance Code, the owner or resident agent may appeal the compliance order to the City Council. Such appeal shall be in writing, must specify the grounds for the appeal, and must be filed with the City within 5 business days after service of the compliance order.

(Ord. 08-003, passed 4-22-2008) Penalty, see § 10.99

§ 150.134 HEARING PROCEDURE.

(A) *Scheduling of hearing.* If the city makes a determination that it will be denying, suspending, revoking or not renewing a license pursuant to this subchapter, or if the owner or resident agent is appealing the compliance order pursuant to § 150.132, the City Council shall conduct a hearing on the matter. The hearing shall be scheduled at the next regular City Council meeting following the date of the notice or receipt of the owner's notice of appeal of a compliance order.

(B) *Hearing.* At the hearing, the City Council shall hear all relevant evidence and arguments and shall review all testimony, documents and other evidence submitted. The owner or resident agent shall have the opportunity to address the City Council at the hearing.

(C) *Findings.* After the hearing is concluded, the City Council shall make findings on whether to uphold the compliance order or to revoke, suspend, deny or not renew the license or impose an administrative fine. The City Council shall issue a written decision within 30 days following the date of the hearing and shall send a copy of its decision to the owner and resident agent by mail. The decision shall specify the rental dwelling or units to which it applies.

(D) *No occupancy.* If a license is revoked, suspended, denied or not renewed by the City Council, it shall be unlawful for the owner or the resident agent to thereafter permit the occupancy of the rental dwelling or the unit. A notice of the action shall be posted by the City Code Official on the rental dwelling or the unit in order to prevent any further occupancy. No person shall reside in, occupy or cause to be occupied that rental dwelling or unit until a license is obtained or reinstated by the owner.

(E) *Appeal.* An owner may appeal the decision of the City Council as allowed under § 150.133(D). (Ord. 08-003, passed 4-22-2008)

CHAPTER 151: SUBDIVISION REGULATIONS

Section

- 151.01 Preliminary plat
- 151.02 Required information
- 151.03 Procedure
- 151.04 Final plat
- 151.05 Design standards
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§ 151.01 PRELIMINARY PLAT.

Any person requesting approval of any subdivision of land must prepare and submit to the city a preliminary plat, clearly and legibly drawn to a scale of 1 inch equals 100 feet, containing the information required in this chapter.

(1993 Code, § 1500.01)

§ 151.02 REQUIRED INFORMATION.

(A) *Identification and description.* The preliminary plat must use a proposed name which is not the same as, or deceptively similar to, the name of any plat previously recorded in Ramsey or Hennepin County. The plat must show the location by section, township, and range and any other information as to definitely establish the location of the property, the name and addresses of the owners, subdivider, surveyors and designer of the plat, the graphic scale, the northpoint, the date of preparation, the existing zoning classifications, the approximate acreage, streets, utilities, permanent buildings and structures, sewers, watermain, culverts and other underground facilities within the tract and to a distance of 100 feet beyond the tract and the location of catch basins, manholes, and hydrants. The plat must also show boundary lines of adjoining land within 100 feet in every direction and ownership of that land. If requested by the city, it must include topographical survey data.

(B) *Design features.* The preliminary plat must contain the following design information:

(1) *Streets.* Layout and centerline gradients of proposed streets showing right-of-way width and names of streets, alleys, and sidewalks;

(2) *Easements.* Location and width of proposed drainage and utility easements;

(3) *Drainage.* Typical cross-sections of proposed improvements upon streets and alleys together with an indication of the proposed storm water runoff showing drainage from other areas that contribute storm waters to the proposed plat;

(4) *Lots.* Lot numbers, dimensions, and size in square feet;

(5) *Dimensions.* Minimum front, rear and side setback lines, and street and building lines, indicating dimensions;

(6) *Public use areas.* Areas in addition to streets, alleys, pedestrian ways, and utility easements, intended to be dedicated to or reserved for public use;

(7) *Elevations.* Front and rear grade elevations for each lot; and

(8) *Additional information.* Any additional information as deemed necessary by the city. (1993 Code, § 1500.02)

§ 151.03 PROCEDURE.

(A) *Copies of preliminary plat.* Four copies of the preliminary plat, along with any additional information required will be filed with the City Manager and a filing fee as provided in Chapter 33 will be paid.

(B) *Planning Commission.* The City Manager will refer the preliminary plat to the Planning Commission for review.

(C) *Public Works Director.* The City Manager will refer copies of the preliminary plat to the Public Works Director and to utility companies for examination and report to the Planning Commission as to existing and required easements.

(D) *Public hearing.* The Planning Commission will review the preliminary plat and related information and conduct a public hearing within 60 days after receipt of the complete preliminary plat. All property owners of record on the city tax rolls who live within 350 feet of the land to be subdivided will be notified by mail at least 10 days prior to the hearing. A notice of hearing identifying the land to be subdivided will be published at least 10 days prior to the date of the hearing. At the hearing, all interested persons will be heard. The Planning Commission will make its report to the City Council.

(E) *City Council.* The City Council will consider the preliminary plat within 30 days following issuance of the report of the Planning Commission. If the preliminary plat is approved, the final plat may be submitted.

(1993 Code, § 1500.03)

§ 151.04 FINAL PLAT.

The final plat must be prepared and certified to by a registered surveyor in compliance with this code, state law, and the requirements of the county. The final plat must show all required monuments in place before it is signed on behalf of the city. The owner must provide the City Council with a certification showing that all taxes currently due on the property to be subdivided have been paid in full. The owner must provide the City Attorney with satisfactory evidence of title to the land to be subdivided. The City Council shall act on the final plat within 30 days after it was filed with the City Manager. If the final plat is approved by City Council resolution, the subdivider must record it with the County Recorder or Registrar of Titles within 30 days after the date of approval; otherwise the approval of the final plat will be deemed void. After recording, the owner will furnish the City Manager with a print of the final plat showing evidence of the recording.

(1993 Code, § 1500.04)

§ 151.05 DESIGN STANDARDS.

(A) *Streets.* The arrangements, character, extent, width, grade, and location of all streets must conform to the city pattern and must be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by the streets. The arrangement of streets in new subdivisions must make provision for the appropriate continuation of the streets in adjoining areas. All right-of-way widths must be a minimum of 60 feet unless the City Council deems a different width to be advisable to conform to the other streets in the area. Private streets and half streets are prohibited.

(B) *Easements.* Easements at least 10 feet wide, centered on rear and other lot lines, must be provided for utilities, where necessary. They must have continuity of alignment from block to block, and at deflection points, and easements for pole-line anchors must be provided where necessary. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there must be provided a right-of-way conforming substantially with the lines of the water course, together with the further width or construction or both, as will be adequate for storm water runoff.

(C) *Blocks.* Blocks must accommodate the size of residential lots required in the area by the zoning code and must provide for convenient access, circulation, control, and safety of street traffic. Pedestrian crossings may be required by the City Council in locations deemed necessary to public health, convenience, and necessity.

(D) *Lot requirements.*

(1) *Access.* All lots must abut by their full frontage on a public street.

(2) *Size.* The minimum dimensions for single-family lots are:

(a) Seventy-five feet at the building setback line;

(b) Sixty feet at the front lot line;

(c) Thirty feet at the rear lot line;

(d) One hundred ten feet in average depth; and

(e) Nine thousand square feet in area.

(3) *Corner lots.* Minimum corner lot widths must be no less than 15 feet greater than interior lot widths.

(4) *Butt lots.* Butt lots must be platted at least 5 feet wider than the average width of interior lots in the block.

(5) *Side lot lines.* Side lines of lots must be substantially at right angles or radial to the street line.

(6) *Water courses.* Lots abutting upon marsh areas, a water course, drainage way, channel or stream must have an additional depth or width, as required, to assure house sites that are not subject to flooding ground water seepage.

(7) *Features.* In the subdividing of any land, due regard must be shown for all natural features, such as tree growth, water courses, historic sites or similar conditions, which if preserved will add attractiveness and stability to the proposed development.

(8) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots; rather than allowed to remain as unusable parcels.

(9) *Political boundary line.* No lot may extend over a political boundary or school district line.

(1993 Code, § 1500.05) Penalty, see § 10.99

§ 151.06 REQUIRED IMPROVEMENTS AND FEES.

(A) *Certifications.* No final plat may be approved by the City Council without first receiving a report by the Public Works Director and the City Attorney certifying that the proposed improvements together with the agreements and documents required under this subchapter meet city requirements, and a certification from the City Manager that all fees have been paid, including all fees of the Public Works Director and City Attorney relating to the subdivision.

(B) *Monuments.* Monuments must be placed at all block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat before the plat is signed on behalf of the city.

(C) *Water and sewer facilities.* Water and sewer improvements must conform to specifications of the city, and will be subject to inspection and approval by the city.

(D) *Street grading.* The full width of the right-of-way must be graded, including the subgrade of the areas to be paved, in accordance with the standard plans approved by the city.

(E) *Street improvements.* All streets must be improved with pavement or wearing course surfaces to an overall width of 30 feet. All cul-de-sacs must have turnarounds, the pavements of which must have a minimum diameter of 100 feet. Concrete curbs and gutters are to be installed, and each lot will be provided with a driveway entrance. All street improvements must be constructed in accordance with applicable standard specifications approved by the city.

(F) *Utilities.* Utility lines for telephone and electric service must be placed in rearline easements when carried on overhead poles. Where telephones electric and gas services lines are placed underground entirely throughout a subdivided area, conduits, or cables shall be placed within easements, or dedicated public ways, in a manner which will not conflict with other underground service. Further transformer boxes must be located so as not to be hazardous to the public. All drainage and underground utility installations which traverse privately-owned property must be protected by easements.

(G) *Topographic map.* The subdivider must furnish the city a topographic map at the subdivider's expense to conform with elevations and revised for subdivision purposes.

(H) *Railroad crossing.* No street dedications will be accepted which require a crossing of a railroad unless sufficient land is dedicated to provide for approachers view consistent with safety, in such an area as the City Council may determine.

(1993 Code, § 1500.06) Penalty, see § 10.99

§ 151.07 AGREEMENT AND SECURITY.

Before a final plat is approved, the owner and subdivider must execute an agreement acceptable to the City Attorney to make and install all required improvements in accordance with the timetable and plans and specifications, prepared or approved by the city. The agreement shall be accompanied by a

cash escrow, letter of credit, or performance bond acceptable to the City Attorney equal to the city's estimated costs of improvements and all fees to be paid by the subdivider.
(1993 Code, § 1500.07)

§ 151.08 SUBDIVISION WITHOUT PLATTING.

The City Council may waive compliance with the platting requirements of this subchapter and approve subdivision by conveyance of land by adoption of a resolution to that effect based upon findings by the City Council that: compliance with the platting requirements would create an unnecessary hardship or expense because of the nature of the subdivision, and failure to require the filing of a plat does not interfere with the purposes of this subchapter. The City Council may consider the number of parcels resulting from the subdivision, the complexity of the legal descriptions, the necessity for dedication of streets or drainage and utility easements, and the probability of future subdivision of the parcels.
(1993 Code, § 1500.08)

§ 151.09 BUILDING PERMIT.

No building permit will be issued for the construction of any building, structure, or improvement on any land required to be subdivided by this chapter until all requirements of this chapter have been fully complied with.
(1993 Code, § 1500.09)

§ 151.10 CONVEYANCE BY METES AND BOUNDS FORBIDDEN.

No conveyance by metes and bounds may be made or recorded if the parcel described in the conveyance is less than 2-1/2 acres in area or 150 feet in width, unless the parcel was a separate parcel of record on 8-22-1973.
(1993 Code, § 1500.10)

§ 151.11 VARIANCES.

The City Council may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. Any application for a variance will be dealt with in the same manner as is provided in Chapter 152 relating to zoning variances.
(1993 Code, § 1500.11)

§ 151.12 PUBLIC LAND DEDICATION REQUIREMENTS.

(A) *Land dedication.* The owners of a parcel of land of 1 acre or more in size and being subdivided shall dedicate to the city a reasonable portion of the land for use as public parks, playgrounds, trails or open space, or, in the alternative, the city may require a cash contribution as provided in division (B) below. As a general rule, it is deemed reasonable for the City Council to require as a condition of subdivision, approval dedication of 10% of the total square foot area of the land being subdivided, or the cash contribution provided for in division (B). The city may determine the location and configuration of any land dedicated, taking into consideration the suitability of the land for its intended purpose and future needs of the community for park, playground, trail, or open space property. This section shall apply to all new residential developments, and lot combination/redivisions meant to facilitate residential development and to all new industrial and commercial developments. It shall not apply to lot combination/redivisions which do not increase the number of residential dwellings, conversion of apartments to condominiums, or internal leasehold improvements.

(B) *Contribution in lieu of land.* At the city's option, the subdivider shall contribute an amount in cash, in lieu of all or a portion of the land required under division (A) above as set forth in Chapter 33 based on the number and type of dwelling units the subdivision will accommodate in the case of any residential development and the total square foot area of the land being subdivided in the case of any commercial or industrial development.

(C) *Land title.* Prior to the dedication of the required property, the subdivider shall provide the city with an acceptable title opinion or title insurance policy addressed to the city, which insures the title and the city's proposed interest in the property. In any land dedication, the subdivider must transfer good and marketable title to the city, free and clear of any mortgages, liens, encumbrances, or assessments, except easements or minor imperfections of title acceptable to the city. If land is not formally dedicated to the city in the final plat, the subdivider shall record all deeds for conveyance of the property to the city at the same time as the final plat or other appropriate division documents.

(D) *Land not credited.* At the city's option, the following types of land shall not be credited for the requirements of this subchapter:

- (1) Land dedicated or obtained as easements for storm water retention, drainage, roadway, or utility purposes;
- (2) Land which is unusable or of limited use; and
- (3) Land that is protected wetlands/flood plain.

(E) *Cash contributions.* Cash contributions, for single-family residential development, will be due and payable at the time of final plat approval by the city. Cash contributions for multifamily residential development will be due and payable at the time of building permit issuance. The applicant will execute a document in a form satisfactory to the City Attorney which acknowledges the obligation to pay amounts due under division (B) above at the time building permits are secured. The documents will be in recordable form and any fee charged in connection with the filing thereof shall be paid by the applicant.

(F) *Park fund.* Any cash contribution received pursuant to division (B) above shall be placed in a separate city fund and used only for park, playground, trail, or open space purposes.

(G) *Dedication or contribution not required.* In the case of subdivision of property with existing residential dwelling units already in place where no new units will be added, no land dedication or cash contribution shall be required.
(1993 Code, § 1500.12)

CHAPTER 152: ZONING CODE

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GENERAL PROVISIONS**§ 152.001 TITLE.**

This chapter will be known as the city's "zoning code."
(1993 Code, § 1600.01)

§ 152.002 INTENT AND PURPOSE.

(A) The intent of the zoning code is to protect the health, safety, and general welfare of the city and its people through the establishment of minimum regulations governing land development and use. The zoning code divides the city into use districts and establishes regulations for the location, erection, construction, reconstruction, alteration, and use of land and structures.

(B) The zoning code is established to:

- (1) Protect the use districts;
- (2) Promote orderly development and redevelopment;
- (3) Provide adequate light, air, and access to property;
- (4) Prevent congestion in the public streets;
- (5) Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and densities;
- (6) Provide for compatibility of different land uses;
- (7) Provide for administration and amendment of the zoning code;

(8) Prescribe penalties for violations; and

(9) Define the powers and duties of the city staff, the Board of Adjustments and Appeals, the Planning Commission, and the City Council in relation to the zoning code.
(1993 Code, § 1600.02)

§ 152.003 SCOPE.

The use of all property in the city must comply with the zoning code. Any building, structure, or use lawfully existing on 8-2-1976 and continuing to lawfully exist to the date of adoption of this zoning code, but not in conformity with this zoning code, will be regarded as nonconforming. The nonconforming uses and structures may be continued subject to the provisions of §§ 152.225 and 152.226.

(1993 Code, § 1600.03)

§ 152.004 INTERPRETATION.

The intent and purposes set forth in § 152.002 will be considered in interpreting and applying the zoning code. If provisions of the zoning code impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of the zoning code will control. If provisions of any statute, other ordinance, or regulation impose greater restrictions than the zoning code, the provisions of the statute, other ordinance, or regulation will control. In this zoning code, the singular includes the plural and the plural the singular, the present tense includes the past and future tenses, the word “building” includes the word “structure,” and the word “lot” includes the word “parcel.”

(1993 Code, § 1600.04)

§ 152.005 PERMITS REQUIRED.

Except as provided in the zoning code, no building, structure, or premises may be erected, converted, enlarged, reconstructed, altered, used, or occupied unless it is in compliance with the zoning code, and an appropriate building permit has been issued.

(1993 Code, § 1600.05)

§ 152.006 USES NOT SPECIFIED.

If a use is not specifically permitted, permitted by conditional use permit, or prohibited, the use will be considered prohibited.

(1993 Code, § 1600.06)

§ 152.007 SEPARABILITY.

The various provisions of the zoning code are separable. If a court declares any provision of the zoning code to be invalid, the judgment will not affect any other provisions of the zoning code not specifically included in the judgment. If a court declares the application of any provision of the zoning code to a particular property or building invalid, the judgment will not affect any other property or building not specifically included in the judgment unless the provision is expressly adjudged universally invalid.

(1993 Code, § 1600.07)

§ 152.008 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A separate building or structure or a portion of a principal building or structure used for accessory uses.

ACCESSORY USE. A use subordinate to the main use on a lot and which is customarily incidental to the main use.

ADDITION. Part of a building added to increase the usable space of the building.

ADULT USES. The following uses will be deemed adult uses and will have the following definitions.

(1) **ADULT BODY PAINTING STUDIO.** An establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when the body is wholly or partially nude in terms of specified anatomical areas.

(2) **ADULT BOOKSTORE.** An establishment or business which barter, rents or sells items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film and either alone or when combined with adult motion picture rental or sales and adult novelty sales within the same business premises has either 10% or more of its stock in trade or 10% or more of its floor area containing items which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

(3) **ADULT CABARET.** An establishment or business which provides dancing or other live entertainment, if the dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas.

(4) ***ADULT COMPANIONSHIP ESTABLISHMENT.*** An establishment or business which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if the service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) ***ADULT CONVERSATION/RAP PARLOR.*** An establishment or business which provides the service of engaging in or listening to conversation, talk, or discussion, if the service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) ***ADULT HEALTH/SPORT CLUB.*** An establishment or business which excludes minors by reason of age and is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) ***ADULT HOTEL OR MOTEL.*** 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.

(8) ***ADULT MINI-MOTION PICTURE THEATER.*** A building or portion of a building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

(9) ***ADULT MODELING STUDIO.*** An establishment or business which provides to customers, figure models 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 the customers.

(10) ***ADULT MOTION PICTURE ARCADE.*** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any 1 time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(11) ***ADULT MOTION PICTURE RENTAL OR SALES.*** An establishment or business which barter, rents, or sells videotapes or motion picture film and either alone or when combined with adult bookstore or adult novelty sales within the same business premises has either 10% or more of its stock in trade or 10% or more of its floor area containing items which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

(12) ***ADULT MOTION PICTURE THEATER.*** A building or portion of a building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

(13) **ADULT NOVELTY SALES.** An establishment or business which sells devices which stimulate human genitals or devices which are designed for sexual stimulation and either alone or when combined with adult bookstore and adult motion picture rental or sales has either 10% or more of its stock in trade or 10% or more of its floor area containing the items and other items which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

(14) **ADULT SAUNA/BATHHOUSE/STEAM ROOM.** An establishment or business which excludes minors by reason of age and which provides a steam bath or heat bathing room if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ALLEY. A public right-of-way upon which the rear of premises generally abuts, or upon which service entrances of buildings abut, and which is not used for general traffic circulation.

ANTENNA. A wire or other device used in receiving and/or sending electromagnetic waves.

APARTMENT. A room or suite of rooms located in a multiple dwelling, which includes a bath (or shower) and kitchen, intended or designed for use as an independent residence.

APARTMENT BUILDING. A multiple dwelling designed to accommodate 3 or more apartments.

ASSEMBLY. A company of persons gathered for deliberation and legislation, worship or entertainment. An assembly may be either religious or secular, but specifically includes a Religious Institution/ Place of Worship. (Am. Ord. 2012-11, passed 11/12/2012)

AUTO REPAIR. Rebuilding, reconditioning, reconstructing, repairing, or replacing worn or damaged motor vehicle parts.

AUTOMOBILE SERVICE STATION. Premises used to dispense, sell, or install automobile fuel, oil, tires, batteries, or accessories or to wash automobiles.

BALCONY. A platform projecting from a wall of a building, enclosed by a railing, and elevated at least 7 feet above ground.

BASEMENT. A portion of a building located partly or completely underground, but having at least half its floor-to-ceiling height below the average grade of the adjoining ground. A garden level apartment, in which the bottom of the windows are not more than 4 feet above the floor, is not considered a **BASEMENT**.

BOULEVARD. The part of the public right-of-way located between the curb line and the property line.

BUFFER. The use of land, topography, space, fences, or landscape plantings to screen or partially screen a lot from another lot.

BUILDABLE AREA. The space on a lot on which a building may be constructed.

BUILDING HEIGHT. The vertical distance measured from the elevation of the lot grade at the building setback line, to the top of the cornice of a flat roof, to the top of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the average distance of the highest gable on a pitched or hip roof.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM. A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to active photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights, and awnings, or passive systems that are designed to capture direct solar heat.

BUILDING-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system affixed to a principal or accessory building.

BUILDING SETBACK. The distance between a building and a given lot line.

CANNABIS FACILITY (AKA MARIJUANA DISPENSARY). An establishment or business which cultivates, acquires, manufactures, possesses, prepares, transfers, transports, supplies, or dispenses medical cannabis or any related supplies in accordance with Minnesota Statutes § 152.22.

CLUB OR LODGE. An establishment in which a limited group of people are organized to pursue common social or fraternal goals, interests or activities, and usually characterized by certain membership restrictions, payment of fees or dues, regular meetings and a constitution or bylaws. The use of any premises and /or buildings is restricted to members and their guests. "Health clubs," listed as a permitted conditional use within the C District under section 152.122, and defined in section 111.340 of the City Code, are excluded from this definition.

COMMON AREAS. Privately-owned land in a residential development which is used for recreational purposes or is of an aesthetic nature, or provides access and is generally intended for the use and/or enjoyment of the residents of the development.

CONDITIONAL USE. A use which is not classified as a permitted use but which may be permitted subject to conditions imposed by the City Council.

CONDOMINIUM. Property to be owned and conveyed in accordance with the Minnesota Condominium Act, M.S. Chapter 515, as it may be amended from time to time.

DAY-CARE FACILITY. A facility regulated by state law where adult supervision and care is provided for 3 or more children.

DECK. A platform projecting from the wall of a building or constructed on top of a building designed to be used by people as space which is part of the structure.

DRIVE-THROUGH FACILITY. A facility from which a product or service is dispensed, sold, rendered, or from which business is transacted, between a business establishment and persons in vehicles.

DWELLING and DWELLING UNIT. A building or a unit in a building intended to be occupied by a person or persons as a place of residence, but excluding rooms in motels, hotels, nursing homes and boarding homes, and excluding trailers and tents.

49A

St. Anthony - Land Usage

DWELLING, MULTIPLE. A building with 3 or more dwelling units, access to which is provided from a common internal hallway.

DWELLING, SINGLE-FAMILY. A dwelling designed to accommodate 1 family.

DWELLING, 2-FAMILY. A dwelling designed to accommodate 2 families in separate dwelling units, each unit with its own means of access.

EXPANSION, ENLARGEMENT, OR INTENSIFICATION. Any increase in a dimension, size, area, volume or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio fence, driveway, parking area or swimming pool, any improvement that would allow the land to be more intensely developed, any move of operations to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of the use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the City.

FAMILY. One person or 2 or more persons each related to the others by blood, marriage, adoption, or foster care, or a group of not more than the owner of a residence plus 3 persons not so related occupying the residence and maintaining a common household and using common cooking and kitchen facilities.

FAST FOOD RESTAURANT. A restaurant in which the primary method of dispensing and selling food is over the counter directly to the customer for consumption on the premises or elsewhere, excluding restaurants in which more than 20% of the gross sales are through table service.

FLOOR AREA. The sum of the gross areas of all floors in a structure except the basement floor, measured from the exterior faces of the exterior walls.

FLOOR AREA RATIO. The ratio of the maximum permitted floor area of the principal building or buildings to the area of the lot on which they are located or to be located. The maximum allowable floor area on a lot is determined by multiplying the lot area by the floor area ratio. The garage is not included in determining the floor area ratio as it is considered an accessory building in residential areas.

FLUSH MOUNTED SOLAR ENERGY SYSTEM. A solar energy system that is installed on the roof of a building in which the solar panels are parallel with the finished roof materials.

FREESTANDING SOLAR ENERGY SYSTEM. A solar energy system with a supporting framework that is placed on, or anchored in, the ground and that is independent of any building or other structure. Garages, carports or similar structures that incorporate building-integrated or building-mounted solar energy systems shall not be classified as freestanding solar energy systems and shall instead be subject to regulations governing accessory structures.

Zoning Code

49B

GARAGE. An accessory building or portion of a principal building which is principally used for the storage of motor vehicles owned by occupants of the principal building. Garages cannot be larger than the principal structure or be more than 1,000 square feet in size in R-1, R-1A, and R-2 zoned property.

GARAGE SALE. Any display of items for sale in a dwelling, garage, or yard on a property used primarily as a residence.

GARDEN LEVEL APARTMENT. An apartment on the lowest level of a building and in which the height of the base of windows is not more than 4 feet above the floor.

GRADE. The elevation of the garage floor in a structure with an attached or tuck under garage, or the elevation of the average finished surface of the ground at the building setback line in a structure with a detached garage.

JUNK YARD. Property where waste, discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled, or handled.

KENNEL. Property other than animal hospitals, pet shops, and veterinary clinics, which is deemed to be a kennel under § 91.20.

LAND RECLAMATION. Land upon which 25 cubic yards or more of fill material (rock, concrete, bituminous concrete or sand) is deposited.

LAND REMOVAL. Land upon which 100 cubic yards or more of soil or subsoil material is removed, not including material excavated for the purpose of constructing basements, footings, or foundations.

LANDSCAPING. The aesthetic improvement of land by the arrangement of plantings and/or decorative features such as fences and walls.

LOT. An area of land intended for occupancy or use as permitted in the zoning code, and otherwise meeting the requirements of the zoning code.

LOT AREA. The area of a lot in a horizontal plane exclusive of contours, bounded by the lot lines, but excluding any area which constitutes public waters or public street or alley right-of-way.

LOT, CORNER. A lot situated at the junction of and abutting on 2 or more intersecting streets, where the interior angle of the junction does not exceed 135 degrees.

(1) **LOT COVERAGE.** The area of a lot covered by impervious surface. An impervious surface is any material that substantially reduces or prevents the infiltration of storm water into the ground. Impervious surfaces shall include all buildings, driveways (paved or gravel), sidewalks and parking areas. A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water will be considered impervious. An impervious surface shall not include decks as long as the deck is pervious and the surface beneath the deck is pervious.

(2) **BUILDING TO LAND RATIO.** The area of the lot covered by buildings only and expressed as a percentage of the total area of the lot.

LOT DEPTH. The mean horizontal distance between the front lot line and the rear lot line of a lot.

LOT, INTERIOR. Any lot other than a corner lot.

LOT LINE. The boundary line of a lot, except that where any portion of a lot extends into the public right-of-way, the right-of-way line will be treated as the lot line.

LOT LINE, FRONT. The boundary of a lot which abuts a public or private street, and in the case of a corner lot it is the boundary to the front of the building's principal entrance.

LOT LINE, REAR. The boundary of a lot which is opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line will be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line, for the purpose of determining setbacks.

LOT LINE, SIDE. Any boundary of a lot which is not a front lot line or a rear lot line.

LOT, THROUGH. A lot which has a pair of opposite lot lines abutting 2 substantially parallel public rights-of-way. For a through lot, both right-of-way lines will be treated as front lot lines.

LOT WIDTH. The averaged distance between side lot lines measured at the front and rear lot lines.

MANUFACTURED HOME. A manufactured home as defined in M.S. § 327.31, Subd. 6, as it may be amended from time to time.

MANUFACTURED HOME PARK. A manufactured home park as defined in M.S. § 327.14, Subd. 3, as it may be amended from time to time.

MOTEL. Premises furnishing sleeping or overnight stopping accommodations for travelers and other transient guests.

NONCONFORMITY. Any land use, structure, physical form of land development, lot of record or sign that is not in full compliance with the regulations of this Ordinance and either (1) was legally established before the effective date of the ordinance provision with which it does not comply, or (2) became non-conforming because of other governmental action, such as a court order or taking by a governmental body under eminent domain or negotiated sale. A nonconformity does not include a land use, structure, physical form of land development, lot of record, or sign that was allowed to deviate from this ordinance by an approved variance. A nonconformity is one of two types of physical land development: a nonconforming use or a nonconforming development.

NONCONFORMING DEVELOPMENT. A nonconformity other than a nonconforming use that does not currently conform to an ordinance standard such as height, setback, or size.

NONCONFORMING LOT OR RECORD. A lot which was legally created and was recorded with the County Recorder's Office on or before the effective date of this Ordinance which does not comply with the lot size requirements for any permitted use in the district in which it is located. Such lot is considered buildable without a variance.

NONCONFORMING STRUCTURE. A nonconforming structure as defined in § 152.003.

NONCONFORMING USE. A nonconforming use as defined in § 152.003.

NURSING HOME. A nursing home as defined in M.S. § 144A.01, Subd. 5, as it may be amended from time to time.

OPEN SALES LOT. Land devoted to the display of goods for sale, rent, lease, advertising, or trade where the goods are not enclosed within a building.

Zoning Code

51B

PARCEL. A contiguous tract of land, which may consist of unplatted land or 1 or more platted lots. For purposes of the zoning code, adjoining lots which were in common ownership on 1-1-1991 according to the real estate records of Hennepin County, or Ramsey County, Minnesota, will be deemed a single parcel if 1 or more of the lots was smaller than the minimum lot size then required under the zoning code.

PARKING SPACE. An area of not less than 200 square feet, exclusive of driveways and aisles, designed for the parking of 1 motor vehicle.

PATIO. A courtyard or other finished exterior ground surface open to the sky constructed of rock, brick, concrete, stone, or similar materials and commonly used for relaxation, socializing, or dining.

PERMITTED USE. A use expressly authorized by the zoning code for a particular district or districts.

PLANNED UNIT DEVELOPMENT. Property developed as a unit under §§ 152.200 through 152.210 rather than as several separate developments under other provisions of the zoning code.

PORCH. A structure projecting from and structurally attached to an exterior wall of a building, covered by a roof and having a floor elevation not more than 3 feet above grade.

RECREATIONAL/OPEN SPACE. Land which has significant natural and/or recreational amenities which warrant protection and/or an assessment of any proposed change in the usage of the land.

RELIGIOUS INSTITUTION/PLACE OF WORSHIP. A building or portion thereof, together with its accessory buildings (supporting homes, convents or rectories) and uses commonly associated with religious institutions, where persons regularly assemble for religious workshop and which building or portion thereof, together with its accessory buildings and common religious uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposed. The term shall not carry secular connotation.

REMODELING. Alterations of a building primarily of an aesthetic nature which may include incidental repairs to supporting members but not structural alterations.

SETBACKS. Areas of a lot adjoining the lots lines in which structures are prohibited.

SEXUALLY-ORIENTED BUSINESSES. Adult bookstores, adult motion picture theaters, adult motion picture rental, adult mini-motion picture theaters, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, and adult body painting studios as defined in this section. In addition, all other premises, enterprises, establishments, businesses, or places at or in which there is an emphasis on the presentation, display, depiction, or description of specified sexual activity or specified anatomical areas which are capable of being seen by members of the public. The term **SEXUALLY-ORIENTED BUSINESSES** shall not be construed to include schools or professional offices of licensed physicians, chiropractors, psychologists, physical therapists, teachers, or similar licensed professionals performing functions authorized under the licenses held, establishments or businesses operated by or employing licensed cosmetologists or barbers performing functions authorized under licenses held, or the sale of clothing.

SIT-DOWN RESTAURANT. A restaurant in which more than 20% of the gross sales are through table service.

SITE PLAN. An outline in detail of the proposed layout of all proposed structures, driveways, parking, landscaping, and other improvements, drawn to an appropriate scale.

SOLAR COLLECTOR SURFACE. Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.

SOLAR ENERGY. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY SYSTEM. A device, set of devices, or structural design feature intended to provide for collection, storage, and distribution of solar energy for purposes including heating or cooling buildings or other energy-using processes, electricity generating by means of any combination of collecting, transferring, solar-generated energy, or water heating.

SPECIFIED ANATOMICAL AREAS. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; or, human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(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;

(2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

(3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(4) Fondling or touching of nude human genitals, pubic region, buttock, or female breast(s);

(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;

(6) Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

STORY. The portion of a building other than a basement which is between the surface of any floor and the surface of the floor next above it; or if there is no floor above, the space between the floor and the ceiling next above.

STREET. A public right-of-way which affords a primary means of access to abutting property.

STRUCTURAL ALTERATION. Any change made to existing support members, columns, beams, girders or foundations except those which are solely of an ornamental, decorative, or incidental nature.

STRUCTURE. Anything constructed, moved or erected, the use of which requires location on the ground or attached to something having a location on the ground, but excluding fences, sidewalks, retaining walls and items of an ornamental or decorative nature.

TOWNHOUSE. Attached dwelling units of 3 or more, each with separate means of access which are not a condominium.

USE. The purpose or activity for which land or a building is designed or intended, or for which it is occupied or maintained.

VARIANCE. A modification of the dimensional requirements of the zoning code pursuant to § 152.245.

VEHICLE. A car, van, truck, motorcycle, snowmobile, motor home, camper, trailer, boat, or similar item licensed by the State of Minnesota for use on roadways or waterways, but excluding bicycles and mopeds.

WALL, RETAINING. That which is erected as a permanent barrier, affixed along its entire length to the ground or some immovable structure to impede the movement or erosion of soil.

YARD. The portion of a lot between a lot line, and a building on the lot.

YARD, EXTERIOR SIDE. A side yard which abuts a street or public right-of-way along the side lot line.

YARD, FRONT. The area extending along the full width of the lot between side lot lines from the street right-of-way line to the principal building on the lot.

YARD, INTERIOR SIDE. A side yard which abuts an adjacent side yard or backyard along the side lot line.

YARD, REAR. The area extending along the full width of the lot between the side lot lines from the rear lot line to the principal building on the lot.

YARD, SIDE. The area extending along the full depth of the lot between the front and rear lot lines from the side lot line to the principal building on the lot.

ZONING DISTRICT. One of the areas defined in § 152.020.

ZONING MAP. The map referred in § 152.021 designating the zoning districts.

(1993 Code, § 1605.01) (Am. Ord. 2012-11) (Am. Ord. 2013-02) (Am. Ord. 2015-04) (Am. Ord 2016-01)

DISTRICTS

§ 152.020 DIVISION OF CITY INTO DISTRICTS.

The city is divided into the following zoning districts:

(A) Residential:

- (1) R-1 Single-Family;
- (2) R-1A Single-Family Lakeshore;
- (3) R-2 Two-Family;
- (4) R-3 Townhouse; and
- (5) R-4 Multiple-Family.

(B) C General Commercial;

(C) LI Light Industrial;

(D) R/O Recreational/Open Space; and

(E) PUD Planned Unit Development.

(1993 Code, § 1610.01)

§ 152.021 ZONING MAP.

The location and boundaries of the zoning districts are designated in the Zoning Map dated 1-1-1993, which is hereby made a part of the zoning code. The Zoning Map and all notations, references, and data shown on the Zoning Map are hereby incorporated by reference into the zoning code and made a part of the zoning code. The Zoning Officer will maintain the Zoning Map on file in the City Hall.

(1993 Code, § 1610.02)

§ 152.022 DISTRICT BOUNDARIES.

The boundaries between districts are, unless otherwise indicated, either the centerlines of streets, alleys, or railroad rights-of-way or property lines, or the lines extended.

(1993 Code, § 1610.03)

R-1 SINGLE-FAMILY DISTRICT**§ 152.035 PURPOSE.**

The purpose of the R-1 District is to create and maintain areas which due to the natural amenities of the land, low traffic volumes, and historical development patterns are best suited for single-family detached residences.

(1993 Code, § 1615.01)

§ 152.036 PERMITTED USES.

Within an R-1 District, only the following uses are permitted:

(A) Single-family detached dwellings;

(B) Public schools or parochial schools which have a curriculum equivalent to a public school;

(C) Publicly owned recreational facilities including parks, play grounds, swimming pools, and athletic fields; and

(D) State licensed facilities permitted under M.S. § 462.357, Subd. 7, as it may be amended from time to time.

(1993 Code, § 1615.02)

§ 152.037 PERMITTED CONDITIONAL USES.

Within an R-1 District, the following uses are permitted only if a conditional use permit has been issued for that use by the City Council:

(A) Religious Institution/Place of Worship;

(B) Essential service structures, including, but not limited to, buildings such as telephone exchange substations, booster or pressure regular stations, wells and pumping stations, elevated tanks, and electrical power substations; and

(C) City buildings including fire and police stations and other municipal service buildings not considered industrial.

(1993 Code, § 1615.03) (Am. Ord. 2012-11)

§ 152.038 ACCESSORY USES.

Subject to the provisions of §§ 152.175 through 152.186, the following accessory uses are permitted in the R-1 District:

(A) Accessory buildings and private garages and parking for passenger cars and for recreational vehicles and trucks subject to the limitations of Chapter 73, but excluding carports;

(B) Swimming pools, subject to the provisions of §§ 150.050 through 150.058;

(C) Tennis courts;

(D) Signs, subject to the provisions of Chapter 155;

(E) Accommodations for not more than 2 boarders or roomers;

(F) Landscaping;

(G) Private nonprofit conservatories for plants and flowers; and

(H) Lawn, garden, and utility buildings.

(I) Solar energy systems, subject to the provisions of §152.187
(1993 Code, § 1615.04) (Am.Ord. 2015-04)

§ 152.039 DIMENSIONAL REGULATIONS.

(A) *Height.* No dwelling may exceed 25 feet in height or contain more than 2 stories.

(B) *Area and width.* No dwelling may be constructed or placed on an interior lot of less than 9,000 square feet, or less than 75 feet in width at the building setback line, or a corner of less than 11,000 square feet or less than 90 feet in width at the building setback line, except as allowed in §152.227.

(C) *Floor area ratio.* The floor area ratio within the R-1 District may not exceed 0.3.

(D) *Minimum floor area.*

(1) Each dwelling must contain the following minimum floor areas on the first floor:

| | |
|-----------------------|-------------------|
| 1-story dwellings | 1,000 square feet |
| 1-1/2 story dwellings | 900 square feet |
| 2-story dwellings | 750 square feet |

(2) In split level dwellings which have finished rooms on the lowest level in compliance with the State Building Code, the area of those rooms will be included in the first floor area minimums.

(E) *Front yard.* The front yard must have a depth equal to the greater of 30 feet or a distance equal to the average of the front yard depths of the 2 adjacent lots.

(F) *Side yards.* Dwellings must have 2 side yards the combined width of which is at least 15 feet, and each side yard must be at least 5 feet wide. A side yard adjacent to a street must be at least 30 feet wide.

(G) *Rear yard.* The rear yard must have a depth equal to the greater of 20% of the depth of the entire lot or 25 feet.

(H) *Lot coverage.* The lot coverage for residential structures on lots with an area 9,000 square feet and above may not exceed 35% . The lot coverage for residential structures on lots with an area less than 9,000 square feet, may not exceed 40%.

(I) *Building to land ratio.* The building to land ratio for the following permitted and permitted conditional uses may not exceed 35%:

(1) Public schools, and private schools or parochial schools which have an approved curriculum equivalent to a public school;

(2) Publicly owned recreational facilities, including parks, play grounds, swimming pools, and athletic fields;

(3) Religious Institution/Place of Worship;

(4) Essential service structures, including, but not limited to, buildings such as telephone exchange substations, booster or pressure regular stations, wells and pumping stations, elevated tanks, and electrical power substations; and

(5) City buildings including fire and police stations and other municipal service buildings not considered industrial.

(J) *General regulations.* Property in the R-1 District is also subject to the provisions of §§ 152.175 through 152.186.

(1993 Code, § 1615.05) Penalty, see § 10.99 (Am. Ord. 2012-11)

R-1A SINGLE-FAMILY LAKESHORE

§ 152.050 PURPOSE.

The purpose of the R-1A District is to create and maintain lakeshore areas for single-family detached residences which, due to the natural amenity of the lake, and the topographic characteristics, call for zoning regulations which are somewhat different from other single-family districts and which are designed for the preservation of natural areas.

(1993 Code, § 1616.01)

§ 152.051 PERMITTED USES.

Within an R-1A District, only the following uses are permitted:

(A) Single-family detached dwellings;

(B) Public schools or parochial schools which have a curriculum equivalent to a public school;

(C) Public owned recreational facilities including parks, play grounds, swimming pools, and athletic fields; and

(D) State licensed facilities permitted under M.S. § 462.357, Subd. 7, as it may be amended from time to time.

(1993 Code, § 1616.02)

§ 152.052 PERMITTED CONDITIONAL USES.

Within an R-1A District, the following uses are permitted only by issuance of a conditional use permit by the City Council:

(A) Essential service structures, including, but not limited to, buildings such as telephone exchange substations, booster or pressure regulating stations, wells and pumping stations, elevated tanks, and electrical power substations; and

(B) Public municipal buildings including fire and police stations and other municipal service buildings not considered industrial.
(1993 Code, § 1616.03)

§ 152.053 PERMITTED ACCESSORY USES.

Subject to the provisions of §152.175 through 152.186, the following accessory uses are permitted in the R-1A District:

(A) Accessory buildings and private garages, carports and parking for passenger cars and for recreational vehicles and trucks subject to the limitations of Chapter 73;

(B) Swimming pools which comply with the provisions of §§ 150.050 through 150.058, and which also comply with the following.

(1) No part of a swimming pool may be located within 10 feet from the side yard lot line or within 75 feet from the natural high water elevation of the lake.

(2) No swimming pool may be located in a front yard.

(3) The filter unit, pump, heating unit and any other mechanical equipment must be at least 25 feet from any neighboring residential structure, at least 10 feet from any side yard lot line and at least 75 feet from the natural high water elevation of the lake.

(C) Tennis courts;

(D) Decorative landscaping features, including, but not limited to, pools, arbors, and terraces;

(E) Lawn, garden, boat house, and utility buildings; and

(F) Patios, covered and uncovered porches, gazebos, and picnic shelters.

(G) Solar energy systems, subject to the provisions of §152.187.
(1993 Code, § 1616.04) (Am. Ord. 2015-04)

§ 152.054 DIMENSIONAL REGULATIONS.

(A) *Height.* No dwelling may exceed 25 feet in height or contain more than 2 stories.

(B) *Area and width.* No dwelling may be constructed or placed on an interior lot of less than 9,000 square feet or less than 75 feet in width at the building setback line, or a corner lot of less than 11,000 square feet or less than 90 feet in width at the building setback line, except as allowed in §152.227.

(C) *Floor area ratio.* The area ratio within the R-1A District may not exceed 0.3.

(D) *Minimum floor area.* Each dwelling must contain no less than the following minimum floor areas on the first floor:

| | |
|-----------------------|-------------------|
| 1-story dwellings | 1,100 square feet |
| 1-1/2 story dwellings | 900 square feet |
| 2-story dwellings | 750 square feet |

(E) *Front yard.* The front yard must have a depth of at least 30 feet.

(F) *Side yards.* Each dwelling must have 2 side yards, each having a width of at least 5 feet and having a combined width of at least 15 feet. Any side yard adjacent to a street must be at least 30 feet in width.

(G) *Rear yard.* The rear yard of any lot abutting the lake must be at least 75 feet from the natural high water elevation of the lake. The rear yard of any lot not abutting the lake must be at least 20% of the depth of the entire lot but in no case less than 25 feet.

(H) *Lot coverage.* The lot coverage may not exceed 35%.

(I) *General regulations.* Property in the R-1A District is also subject to the provisions of §§ 152.175 through 152.186.

(1993 Code, § 1616.05) Penalty, see § 10.99

R-2 TWO-FAMILY DISTRICT**§ 152.065 PURPOSE.**

The purpose of the R-2 District is to provide areas which are best suited for a higher density than single-family dwellings, and which may serve as a transitional use between R-1 or R-1A Districts and other districts.

(1993 Code, § 1620.01)

§ 152.066 PERMITTED USES.

Within an R-2 District, only the following uses are permitted:

(A) Uses permitted in the R-1 or R-1A District; and

(B) Two-family detached dwellings.

(1993 Code, § 1620.02)

§ 152.067 PERMITTED CONDITIONAL USES.

Within an R-2 District, a use permitted under § 152.037 is permitted only if a conditional use permit has been issued for that use by the City Council.

(1993 Code, § 1620.03)

§ 152.068 ACCESSORY USES.

Subject to the provisions of §§ 152.175 through 152.186, the accessory uses permitted in the R-1 and R-1A District are permitted in the R-2 District.

(1993 Code, § 1620.04)

§ 152.069 DIMENSIONAL REGULATIONS.

(A) *Height.* No dwelling may exceed 25 feet in height or contain more than 2 stories.

(B) *Area and width.* No dwelling may be constructed or placed or built on an interior lot of less than 12,000 square feet or less than 85 feet in width at the building setback line, or a corner lot of less than 14,000 square feet or less than 100 feet in width at the building setback line, except as allowed in §152.227.

(C) *Floor area ratio.* The floor area ratio within the R-2 District may not exceed 0.3.

(D) *Minimum floor areas.* Each dwelling must contain the following minimum floor areas on the first floor:

| | |
|-----------------------|-----------------|
| 1-story dwellings | 850 square feet |
| 1-1/2 story dwellings | 800 square feet |
| 2-story dwellings | 700 square feet |

(E) *Front yard.* The front yard must have a depth equal to the greater of 30 feet or a distance equal to the average of the front yard depths of the 2 adjacent lots.

(F) *Side yards.* Dwellings must have 2 side yards the combined width of which is at least 15 feet, and each side yard must be at least 5 feet wide. A side yard adjacent to a street must be at least 30 feet wide.

(G) *Rear yard.* The rear yard must have a depth equal to the greater of 20% of the depth of the entire lot or 25 feet.

(H) *Lot coverage.* The lot coverage may not exceed 35%.

(I) *General regulations.* Property in the R-2 District is also subject to the provisions of §§ 152.175 through 152.186.
(1993 Code, § 1620.05) Penalty, see § 10.99

§ 152.070 DIVISION OF LOT INTO SEPARATE OWNERSHIP.

A lot in the R-2 District may be divided into 2 separate lots with the party wall between the 2 dwelling units acting as the dividing lot line, subject to the procedures and other requirements of Chapter 151, and subject to the following conditions.

(A) The areas of the 2 lots must be as nearly equal as is reasonably possible, and each lot must contain no less than 1/2 the minimum land area requirement for a 2-family dwelling.

(B) Except for having no setback along the common property line, all other setback and yard requirements must be met.

(C) No fence or shrubbery divider may be installed or maintained within the required front yard of either lot.

(D) Separate services must be provided to each residential unit for sanitary sewer, water, electricity, natural gas, telephone, and other utilities.

(E) The common party wall must have the fire rating and sound transmission control rating required under the Uniform Building Code.

(F) The owner must execute and record at the owner's expense a declaration of covenants, conditions and restrictions in a form approved by the city covering party walls, arbitration of disputes, maintenance of the structure, exterior finishes, land surrounding the building, architectural control, roofs of different types and colors, and the right (but not the obligation) of the city to enforce the provisions of the declaration.

(1993 Code, § 1620.07)

R-3 TOWNHOUSE DISTRICT**§ 152.085 PURPOSE.**

The purpose of the R-3 District is to provide areas where the natural amenities such as trees, hills and bodies of water are preserved by encouraging development of medium density housing surrounded by common open space, which may serve as a transitional use between less dense residential districts and other districts, and which provide for alternatives to 1- and 2-family detached dwellings.
(1993 Code, § 1625.01)

§ 152.086 PERMITTED USES.

Within an R-3 District only the following uses are permitted:

(A) Uses permitted in the R-1, R-1A, and R-2 Districts; and

(B) Townhouse buildings containing not less than 3 units nor more than 8 units.
(1993 Code, § 1625.02)

§ 152.087 PERMITTED CONDITIONAL USES.

Within an R-3 District, the following uses are permitted only if a conditional use permit has been issued by the City Council:

(A) Uses permitted as conditional uses in the R-1, R-1A, and R-2 Districts;

(B) Nursing homes; and

(C) Multiple dwellings with not more than 4 apartments.
(1993 Code, § 1625.03)

§ 152.088 ACCESSORY USES.

Subject to the provisions of §§ 152.175 through 152.186, the following accessory uses are permitted in the R-3 District:

(A) Accessory uses permitted in the R-1, R-1A, and R-2 Districts; and

(B) Common area facilities including swimming pools and tennis courts, intended solely for the use and enjoyment of the residents and their guests.
(1993 Code, § 1625.04)

§ 152.089 DIMENSIONAL REGULATIONS.

(A) *Height.* No dwelling may exceed 30 feet in height or contain more than 2 stories.

(B) *Area and width.* The land must contain at least 4,000 square feet per dwelling unit, with a total lot area of at least 15,000 square feet, and a lot width of at least 90 feet at the building setback line, except as allowed in §152.227.

(C) *Floor area ratio.* The floor area ratio within the R-3 District may not exceed 0.6.

(D) *Minimum floor area.*

(1) Efficiency units must contain at least 500 square feet on 1 floor.

(2) One bedroom units must contain at least 650 square feet on 1 or 2 floors, not including any basement.

(3) Two bedroom units must contain at least 800 square feet on 1 or 2 floors, not including any basement.

(4) Units with more than 2 bedrooms must contain at least 800 square feet plus 125 square feet for each additional bedroom, not including any basement.

(E) *Front yard.* The front yard must have a depth equal to the greater of 30 feet or a distance equal to the average of the front yard depths of the 2 adjacent lots.

(G) *Side yards.* Dwellings must have 2 side yards the combined width of which is at least 25 feet, and each side yard must be at least 10 feet wide. Side yards adjacent to a street must be at least 30 feet wide.

(H) *Rear yards.* The rear yard must have a depth equal to the greater of 25% of the depth of the entire lot or 30 feet.

(I) *Unit width.* The width of each dwelling unit must be at least 20 feet.

(J) *Lot coverage.* The lot coverage may not exceed 50%.

(K) *General regulations.* Property in the R-3 District is also subject to the provisions of §§ 152.175 through 152.186.
(1993 Code, § 1625.05)

R-4 MULTIPLE-FAMILY DISTRICT**§ 152.100 PURPOSE.**

The purpose of the R-4 District is to provide areas for housing other than 1- and 2-family dwellings and townhouses, and which may serve as a transitional use between less dense residential uses and nonresidential uses.

(1993 Code, § 1630.01)

§ 152.101 PERMITTED USES.

Within an R-4 District, the only permitted uses are rental apartment units and condominium apartment units.

(1993 Code, § 1630.02)

§ 152.102 PERMITTED CONDITIONAL USES.

Within an R-4 District, the following uses are permitted only if a conditional use permit has been issued for that use by the City Council:

(A) Uses permitted as conditional uses in the R-1, R-1A, R-2, and R-3 Districts;

(B) Townhouses;

(C) Service or convenience type businesses, including grocery stores, pharmacies, barber shops and beauty shops catering to the residents of an apartment or condominium building or complex, not to exceed 1,000 square feet in size and provided there is no advertising or signing on the exterior of the building or in any yard;

(D) A state licensed residential facility serving from 7 through 16 persons;

(E) A state licensed day care facility serving from 13 through 16 persons; and

(F) Nursing home.

(1993 Code, § 1630.03)

§ 152.103 ACCESSORY USES.

Subject to the provisions of §§ 152.175 through 152.186, the accessory uses permitted in the R-1, R-1A, R-2, and R-3 Districts are permitted in the R-4 District.

(1993 Code, § 1630.04)

§ 152.104 DIMENSIONAL REGULATIONS.

(A) *Height.* No building or structure may exceed 35 feet in height or contain more than 3 stories.

(B) *Area.* No dwelling may be constructed or placed on a lot which is less in area than the following, except as allowed in §152.227:

| <i>Building Size</i> | <i>Minimum Lot Size</i> |
|----------------------|---|
| 2 to 8 units | 12,000 square feet plus 2,500 square feet per each unit over 2 |
| 9 to 16 units | 27,000 square feet plus 2,000 square feet per each unit over 8 |
| 17 or more units | 43,000 square feet plus 1,750 square feet per each unit over 16 |

(C) *Floor area ratio.* The floor area ratio within the R-4 District may not exceed 1.0.

(D) *Front yard.* There must be a front yard with a setback of at least 30 feet.

(E) *Side yards.*

(1) There must be 2 side yards with a minimum width of at least 15 feet each.

(2) Side yards adjacent to a public right-of-way must be at least 30 feet in width.

(3) There must be a distance equal to the height of the highest building on a lot between any buildings on the same lot, to a maximum required distance of 30 feet.

(F) *Rear yard.* The rear yard must have a depth equal to the greater of 20% of the entire lot or 40 feet.

(G) *Minimum floor area.*

(1) Efficiency units must contain at least 500 square feet.

(2) One-bedroom units must contain at least 650 square feet.

(3) Units with more than 1 bedroom must contain at least 650 square feet plus 125 square feet for each bedroom in excess of 1.

(H) *Lot coverage.* The lot coverage may not exceed 50%.
(1993 Code, § 1630.05)

§ 152.105 GENERAL REGULATIONS.

Property in the R-4 District is also subject to the provisions of §§ 152.175 through 152.186.
(1993 Code, § 1630.06)

C GENERAL COMMERCIAL DISTRICT**§ 152.120 PURPOSE.**

The C District is intended to provide areas for retail sales and services located and regulated so as to minimize adverse effects on neighboring residential districts and congestion of public streets.
(1993 Code, § 1635.01)

§ 152.121 PERMITTED USES.

Within a C District, only the following uses are permitted:

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|--|
| Accountants |
| Antique shops |
| Appliance stores |
| Architects |
| Art galleries |
| Art or school supply stores |
| Artists |
| Attorneys |
| Auto accessory or parts stores |
| Bakeries which sell at retail only |
| Banks and savings and loan associations without drive-through facilities |
| Barber and beauty shops |
| Beverage stores for the sale of beverages for consumption off the premises |
| Bicycle sales and service stores |
| Bonding companies |

| |
|--|
| Book or stationery stores |
| Bus stations of the Metropolitan Transit Commission |
| Camera or photographic supply stores |
| Candy, ice cream, soft drink or confectionery stores without drive-through facilities |
| Carpet, rug and floor covering stores |
| China and glassware stores |
| Clothing stores |
| Coffee houses without drive-through facilities |
| Consultants |
| Costume and formal wear rental stores |
| Curtain and drapery stores |
| Day-care centers without drive-through facilities |
| Department, discount or variety stores |
| Drug stores |
| Dry cleaning, laundry and laundromat operations |
| Educational and scientific research offices excluding laboratory facilities |
| Electrical appliance stores |
| Electronics stores |
| Employment agency offices |
| Fabric stores |
| Florists |
| Funeral homes and mortuaries |
| Furniture stores |
| Garden supply stores |
| Gift shops |
| Government offices |
| Grocery stores which do not have products or produce offered for sale outside the building |
| Hardware, paint, wallpaper and home decorating stores |
| Hobby stores |
| Insurance agents |

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| |
|--|
| Jewelry stores |
| Libraries |
| Locksmiths |
| Luggage (retail) stores with no tanning of animal hides done on the premises |
| Meat stores and butcher shops |
| Museums |
| Music and record stores |
| Music schools and dance schools |
| Office supply and equipment stores |
| Pet stores where all pets are caged within the structure and where there are no external offensive noises or odors |
| Photographic studios |
| Physicians, dentists and health care professionals, including optometrists, chiropractors, chiropodists and osteopaths, therapists, and physical culture and health service or club, reducing club or salon or therapeutic massage studio, as defined in Subsection 575.01 |
| Pipe and tobacco shops |
| Postal substations |
| Radio studios without towers |
| Realtors and other brokers |
| Rental businesses |
| Restaurants without drive-through facilities located more than 250 feet from a residential structure or district |
| Sewing machine sales and service shops |
| Shoe stores and shoe repair shops |
| Sporting goods stores |
| Tailors |
| Taxi stands without maintenance facilities |
| Toy stores |
| Travel agencies |
| Upholstery shops |
| Veterinary clinics |

(1993 Code, § 1635.02)

§ 152.122 PERMITTED CONDITIONAL USES.

The following uses are permitted in the C District only by conditional use permit issued by the City Council:

- (A) Sexually-oriented businesses which comply with the requirements of Chapter 110;
- (B) A use permitted under § 152.121 except for the fact that it has a drive-through facility;
- (C) Assembly, club or lodge;
- (D) Auto repair which includes no storage of autos for parts;
- (E) Bus stations of the Metropolitan Transit Operations;
- (F) Car washes;
- (G) Gasoline station;
- (H) Liquor stores and lounges;
- (I) Motels;
- (J) Video tape sales and rentals;
- (K) Body tanning salons;
- (L) Establishments primarily for the sale of beverages for consumption on the premises;
- (M) Bowling alleys;
- (N) Health clubs;
- (O) Pool or billiard halls;
- (P) Restaurants, cafeterias, and delicatessens located less than 250 feet from a residential structure or district;
- (Q) Theaters;
- (R) Establishments having more than 3 amusement devices as defined in § 111.025;
- (S) Motorcycle sales and accessories;

(T) Hardware and building material supply store with outdoor lumber yard, where the lumber yard is screened in a manner approved by the City Council, and the hardware and building material supply store building contains at least 30,000 square feet of space;

(U) Laboratories for medical research and testing (except research and testing which uses animals) that provide services to health care providers;

(V) Computer research and program development;

(W) Pawnbroker businesses which comply with the requirements of §§ 111.285 through 111.302;

(X) Secondhand dealers that comply with the requirements of §§ 111.250 through 111.273; and

(Y) Adult day-care centers, licensed under M.S. Chapter 245A, as it may be amended from time to time, and Minn. Rules, sections 9555.9600 through 9555.9730.

(Z) Solar energy systems, subject to the provisions of §152.187.
(1993 Code, § 1635.03) (Am. Ord. 2012-11) (Am. Ord. 2015-04)

§ 152.123 ACCESSORY USES.

Subject to the provisions of §§ 152.175 through 152.186, the following accessory uses are permitted in the C District:

(A) Incidental repair, limited processing or storage necessary to conduct a permitted principal use if conducted within the principal structure;

(B) Private garages, off-street loading and unloading docks and facilities;

(C) Private swimming pools or other recreational facilities;

(D) Temporary mobile structures for construction purposes only; and

(E) Accessory buildings not exceeding 1 story in height.
(1993 Code, § 1635.04)

§ 152.124 DIMENSIONAL REGULATIONS.

(A) *Height.* No structure may exceed 35 feet in height or contain more than 3 stories.

(B) *Lot area and width.* The minimum lot area is 15,000 square feet, and the minimum lot width is 100 feet, except as allowed in §152.227.

(C) *Floor area ratio.* The floor area ratio within the C District may not exceed 1.0.

(D) *Front yards.* The front yard must have a depth equal to the greater of 35 feet or a distance equal to the average of the front yard depths on the 2 adjacent lots.

(E) *Side yards.* Interior side yards must be at least 10 feet in width, except where a common wall meeting fire code requirements is provided between 2 buildings. Side yards adjoining a street must be at least 35 feet.

(F) *Rear yards.* The rear yard must have a depth of at least 20 feet, or at least 25 feet if there is an alley.

(G) *Setbacks from residential districts.* There must be a setback area of not less than 20 feet from any property in a residential district within which setback area parking, storage, and/or loading facilities are excluded.

(H) *Shopping centers.* The minimum yards set forth in this section will not apply to any lot line of a lot in a shopping center if the lot line adjoins either another lot within the shopping center or a driveway or parking area within the shopping center, and the City Council has approved a site plan for a building to be constructed on the lot with a different setback from the lot line. In those cases, the setback approved by the City Council shall apply so long as the building exists on the lot. For purposes of this division (H), a **SHOPPING CENTER** means any group of 4 or more retail or service establishments totaling a minimum floor area of 75,000 square feet, on 1 or more contiguous tracts of land in single ownership, or in multiple ownership but subject to a reciprocal easement agreement governing common access and parking.

(1993 Code, § 1635.05)

§ 152.125 GENERAL REGULATIONS.

Property in the C District is also subject to the provisions of §§ 152.175 through 152.186.
(1993 Code, § 1635.06)

LI LIGHT INDUSTRIAL DISTRICT

§ 152.140 PURPOSE.

The purpose of the LI District is to designate areas for, and regulate the development of, light industry. Areas are designated as light industrial due to the proximity of high capacity roadways or rail facilities and existing development, and regulated to enhance the compatibility of light industrial uses and uses within the commercial and residential districts.

(1993 Code, § 1640.01)

§ 152.141 PERMITTED USES.

The following uses are permitted within an LI District:

- (A) Automotive service and repair provided no junked autos are kept on the property;
- (B) Cleaning, laundering and dry cleaning facilities;
- (C) Contractors offices, if equipment or materials are screened according to § 152.183;
- (D) Engraving and printing;
- (E) Laboratories for research and testing;

(F) Manufacturing of artists supplies, boats, building materials, confectionery goods, canvas, canvas products, cork products, dry goods, electric motors, generators, transformers, controls and components, electronics products and service, food stuffs (except meatpacking or slaughtering), furniture, glass, clay and ceramics products (not involving a blast furnace), leather products (not involving the tanning or processing of hides), machinery, machine tools, optical goods, photographic products and film processing (except film manufacture), secondary plastics products, including molding and injection processes, rubber products except primary rubber manufacturing, signs, and sporting goods;

(G) Millworks;

(H) Offices for administrative purposes and non-retail businesses; and

(I) Warehouses, wholesalers or distributors for products permitted under division (F) above or for alcoholic beverages, chemicals, soaps, detergents, drugs, cosmetics, pharmaceuticals and toiletries, dry goods, meat and meat products, paper, paper products, steel goods, metal products which are rolled, drawn, stamped, extruded or cast, tile, brick, terra cotta, tires, automotive products, and wood products. (1993 Code, § 1640.02)

§ 152.142 PERMITTED CONDITIONAL USES.

The following uses are permitted in an LI District only by a conditional use permit issued by the City Council:

- (A) Drug, cosmetic, pharmaceutical, and toiletries manufacture;
- (B) Canning or bottling other than malt products;
- (C) Enameling, painting, varnishing, lacquering, and japanning;

- (D) Freight terminals;
- (E) Meat packing which does not include the slaughtering of any kind of animal;
- (F) Steel or metal goods manufacturing processes, not involving blast furnace processes;
- (G) Catering operations and in-house cafeterias not intended for retail or public use;
- (H) Day-care center without drive-through facilities.

(1993 Code, § 1640.03) (Am. Ord. 2011-004, passed 6-28-2011) (Am. Ord. 2012-11)

§ 152.143 ACCESSORY USES.

Subject to the provisions of §§ 152.175 through 152.186, the following uses are permitted accessory uses in the LI District:

(A) Storage sheds which do not exceed 1 story in height and which have been approved by the City Council as to size and design; and

(B) Buildings temporarily located on the premises for purposes of construction for a period not to exceed completion of construction.

(1993 Code, § 1640.04)

(C) Solar energy systems, subject to the provisions of 152.187

§ 152.144 DIMENSIONAL REGULATIONS.

(A) *Height.* No structure may exceed 35 feet in height or contain more than 3 stories.

(B) *Lot area and width.* The minimum lot area is 15,000 square feet, and the minimum lot width is 100 feet.

(C) *Front yard.* The front yard must have a depth equal to the greater of 40 feet or a distance equal to the average of the setbacks of structures on the 2 adjoining lots.

(D) *Side yards.* Side yards on interior lots must be at least 15 feet each. Side yards adjoining a street must be at least 40 feet.

(E) *Rear yards.* The rear yard must be at least 15 feet in depth.

(F) *Floor area ratio.* The floor area ratio in the LI District may not exceed 1.5.

(G) *Setbacks from residential districts.* There must be a setback of at least 20 feet from any property in a residential district, within which setback area parking, storage, and/or loading facilities are excluded.

(1993 Code, § 1640.05)

R/O RECREATIONAL/OPEN SPACE DISTRICT

§ 152.155 PURPOSE.

The purpose of the R/O District is to regulate development in those areas which have significant natural amenities such as trees, terrain, and water resources, and to regulate development for recreational purposes in areas which have significant public or private recreational potential.

(1993 Code, § 1645.01)

§ 152.156 PERMITTED USES.

Only the following uses are permitted in the R/O District:

(A) Outdoor or indoor recreational facilities and their supporting structures operated by a governmental agency, a private, nonprofit service organization or conservation group, including, but not limited to, lodges, kitchens, dining halls and supporting restaurants, dormitories, and golf courses;

(B) Trails and pathways for pedestrians and non-motorized means of transit;

(C) Cemeteries; and

(D) Schools and government buildings.

(1993 Code, § 1645.02)

§ 152.157 IMPACT STATEMENT FOR ANY REZONING.

Before an application is considered for rezoning any R/O District, a statement indicating the expected impact of the proposed development on the environment and public facilities including streets, schools, and utilities, and an economic feasibility study of the development, are required. The statement must include:

(A) *Expected impact.* An assessment of the expected impact of the project on the watershed, including ponds, streams, and wetlands;

(B) *Topography*. A survey of the existing topography, soil, vegetation and habitat and how the development will affect these;

(C) *Noise control*. How the developer proposes to control noise, vibration, smoke, dust, and particulant matter during and after construction;

(D) *Congestion*. An assessment of the impact the project will have on congestion in streets and roadways in the vicinity, and the effect the development will have on schools and public utilities; and

(E) *Economic feasibility*. A marketing study of the economic feasibility of the proposed development, the market to be reached, and substantiation of the financial capability of the developer to complete the proposed development.
(1993 Code, § 1645.03)

§ 152.158 ACCESSORY USES.

Subject to the provisions of §§ 152.175 through 152.186, the following accessory uses are permitted in an R/O District:

(A) Athletic fields;

(B) Craft or art buildings;

(C) Maintenance buildings for the storage of equipment used to maintain grounds, buildings, trees and equipment, to be located in such a way as to minimize the potential damage to the environment by the seepage or spillage of oil, gasoline, solvents, or lubricants;

(D) Nature interpretive centers;

(E) Swimming pools, bathhouses, gymnasiums, locker rooms, and other athletic structures; and

(F) Mausoleums and crypts.

(G) Solar energy systems, subject to the provisions of 152.187
(1993 Code, § 1645.04)(Amended: 2013-02)

§ 152.159 DIMENSIONAL REGULATIONS.

(A) *Height*. No structure may exceed 35 feet in height or contain more than 3 stories.

(B) *Setbacks*. No structure may be constructed or placed within 25 feet of a property line.

(C) *Lake setback*. No structure may be constructed or placed within 200 feet of a lake or within 75 feet of a watercourse or ponding area.
(1993 Code, § 1645.05)

§ 152.160 BUILDING DESIGN REQUIREMENTS.

All structures must be constructed of a material and of a design which is compatible with the natural environment as determined by the Planning Commission and City Council, and must conform with all applicable laws.

(1993 Code, § 1645.06)

GENERAL REGULATIONS**§ 152.175 LOT REQUIREMENTS.**

(A) *Lot size.* Adjoining lots which were in common ownership on or after 8-18-1976 according to the real estate records of Hennepin or Ramsey County, Minnesota, will be deemed a single parcel if 1 or more of the lots is smaller than the minimum lot size required under the zoning code.

(B) *Principal structure.* There may be no more than 1 principal structure on a lot in any R-1, R-1A, or R-2 District.

(C) *Street lines.* On a through lot, both street lines will be front lot lines for applying the yard and parking requirements of the zoning code.

(1993 Code, § 1650.01) Penalty, see § 10.99

§ 152.176 ACCESSORY BUILDINGS.

(A) *In yards.* No detached accessory building may be located within any yard other than the rear yard, except that garages may be located in side yards.

(B) *Minimum setback.* The wall of an accessory buildings shall not be located less than five (5) feet from any property line and in no case shall any eave or other portion of any accessory building may be located within 3 feet of any property line, except as provided in division (L) below.

(C) *Accessory buildings attached.* If an accessory building is attached to the principal structure, it will be considered a part of the principal building and must comply with all setbacks and other requirements applicable to the principal building.

(D) *Setback from principal building.* Unless attached to and made a part of the principal building, no eave or other portion of an accessory building may be closer than 5 feet from any eave or other portion of a principal building, except as provided in division (L) below.

(E) *Design.* All accessory buildings constructed after the construction of the principal building must be designed and constructed in a manner consistent with the design and general appearance of the principal building. Accessory buildings constructed primarily of canvas, plastic fabric, or other similar non-permanent materials shall be prohibited.

(F). *Height.*

(1) Residential Districts. A detached accessory building, accessory to a principal use located in a residence district shall not exceed the height of the principal building or fifteen (15) feet, whichever is less. The maximum height to the highest point on a roof shall not exceed twenty (20) feet.

(2) Commercial or Industrial Districts. No accessory building in a commercial or industrial district shall exceed the height of the principal building except by conditional use permit.

(G). *Number of buildings.* A maximum of two individual accessory buildings per lot, including detached garages, shall be allowed in all zoning districts. Landscape features, such as statuary and the like; easily movable seasonal temporary structures not intended to remain erected for 12 months, such as party tents and the like; and backyard play equipment, such as swing sets, trampolines, slides, and the like, shall not count towards the number of permitted accessory buildings as provided in this division.

(H). *Size.*

(1) One- and Two-Family Dwellings. The maximum floor area of one accessory building or combination of two buildings in the R21, R1-A, and R2 districts shall not exceed 750 square feet in area or 80% of the area of the principal building, whichever is less.

(2) Attached and Multi-family Buildings. Attached and multi-family buildings in the R3 and R4 districts are allowed one storage or maintenance building and one garden shed per complex, plus detached garage structures as needed.

(3) In all residential districts, one accessory building in addition to any detached garage may be permitted, except that it shall not exceed 120 square feet in area if a detached garage exists on the same lot.

(I). *Garage door openings.* Garage door openings shall be limited in height to 8 feet as measured from the driveway apron at the door opening.

(J). *Building standards.* All accessory buildings in excess of 120 square feet shall be constructed to the standards of the Minnesota State Building Code. The architectural appearance of accessory buildings should be visually compatible with the principal building relative to color, materials, and form.

(K). *Accessory buildings without a Principal Building.* No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is an accessory unless authorized through an agreement as prepared by the City Attorney and approved by the City Council.

(L). *Garage setback permit.* A garage which will cover an area of no more than 576 square feet may be located within the side setbacks and/or rear setbacks if a setback permit has been issued for the garage under the following provisions of this section.

(1) Application for a setback permit must be made in writing on forms provided by the City Manager and must be filed with the City Manager, together with a filing fee in the amount required under Chapter 33. The application must include a survey showing the proposed location of the building and the buildings on the property adjoining the setback in question. The application must also address the other matters to be considered by the Planning Commission and City Council, as set forth in division

(1) Application for a setback permit must be made in writing on forms provided by the City Manager and must be filed with the City Manager, together with a filing fee in the amount required under Chapter 33. The application must include a survey showing the proposed location of the building and the buildings on the property adjoining the setback in question. The application must also address the other matters to be considered by the Planning Commission and City Council, as set forth in division (B) above. The permit application will be considered by the Planning Commission and City Council, and notice of the hearing will be given, all in the same manner as provided in § 152.243 for conditional use permits. After the hearing by the Planning Commission, the City Council will grant or deny the permit, stating its reasons for doing so.

(2) In granting or denying the setback permit, the City Council will consider the proximity of the garage to any buildings on the adjoining property, the extent of vegetation or other screening on the subject property and the adjoining property, the effect of the garage on the light and visibility available to the adjoining property, modification to/or blockage of drainage ways, matters of fire safety, the existing garages on the adjoining property, the ability to locate garages elsewhere on the subject property, and any other matters which may be relevant to the degree of encroachment into the setback.

(3) If a setback permit is granted, it will run with the title to the property for which it was granted so long as the garage for which it was granted continues to exist. If that building is destroyed or removed, the permit will automatically expire.

(1993 Code, § 1650.02) Penalty, see § 10.99

(M). *Driveways.* Driveways shall be required for doorway openings meeting or exceeding 8 feet wide by 7 feet tall. All driveways must meet the standards as outlined in §152.179.

(N). *Accessory Dwelling Units.* Detached accessory buildings shall be prohibited from containing complete independent living facilities (accessory dwelling units), which would include permanent provisions for living, sleeping, eating, and sanitation.

(O), *Drainage and Utility Easements.* No part of an accessory building shall extend into a drainage and utility easement or any required setback.

(P). *Permit Requirements.* A zoning permit shall be required for all accessory buildings less than 120 square feet in area. All accessory buildings over 120 square feet shall require a building permit. A fee as determined from time to time by the City Council shall be required to process the permit.

(Amended Ordinance 2013-05; 11/12/2013)

§ 152.177 ENCROACHMENTS IN YARDS.

The following are permitted encroachments in required yards:

(A) Chimneys, flues, sills, pilasters, lintels, ornamental features, and bays which do not extend more than 3 feet into the yard or closer than 3 feet from the property line;

(B) Yard light and nameplate signs which are at least 5 feet from any side property line;

(C) Balconies which project no more than 5 feet into required front or side yards and are not closer than 5 feet from any property line, or balconies which project no more than 20 feet into required rear yards and are not closer than 25 feet from the rear property line;

(D) Steps, stoops, and porches which extend into a front yard not more than 5 feet;

(E) Terraces, steps, stoops, uncovered porches, and patios which extend into a side yard not more than 5 feet and are not closer than 5 feet from any property line;

(F) Breezeways, covered or uncovered porches, patios, steps, stoops, and picnic shelters in a rear yard which are not closer than 5 feet from any property line;

(G) Non-window mounted air conditioning units which extend no more than 6 feet into any required yard other than the front yard, and which are at least 15 feet from any property line;

(H) Eaves, gutters, and downspouts which project no more than 5 feet into any required yard, which are at least 30 inches from any property line, and which do not drain onto neighboring property;

(I) Any life safety improvements to a residential structure such as egress window wells and/or other similar above grade exiting requirements so long as access to the rear yard is preserved; and

(J) The Building Official and/or the Fire Marshal shall have the authority to require a fence or any other means of structure to be installed in such a manner as to protect the public from accidentally falling, tripping, or sustaining an injury of any sort as the result of the installation and existence of an egress window well.

(1993 Code, § 1650.03) Penalty, see § 10.99

§ 152.178 HEIGHT LIMIT EXCEPTIONS.

In determining height limitations, the following items will be excluded if they do not adversely affect adjoining properties and their inclusion would not cause a structure to exceed 75 feet in height: belfries, chimneys, church spires, cupolas, and domes which do not contain usable space, elevator penthouses, fire and hose towers, flag poles, monuments, antennas, and transmission and receiving towers for which a conditional use permit has been issued.

(1993 Code, § 1650.04)

§ 152.179 PARKING.

(A) *On-site parking.* All property in the city must comply with the following on-site parking requirements.

(1) Parking spaces must be at least 9 feet x 19 feet and those in the R-4, B, C, and LI Districts must be clearly marked and outlined.

(2) The total area of a parking lot, including all parking spaces, drive aisles, islands and landscaping must be no less than the required number of parking spaces multiplied by 300 square feet.

(3) All vehicles, as defined in § 152.008, parked on any lot in an R-1, R-1A, R-2, or R-3 District must be parked on a surface paved with asphalt or bituminous material, concrete, cement, brick, or other paved surface, or on a gravel driveway located in the front yard.

(4) Any vehicle without a current state registration must be parked in a garage or other building.

(5) Minimum number of spaces:

(a) Single-family detached units must have at least 2 fully enclosed parking spaces;

(b) Two-family dwellings, townhouses, apartments, and condominiums must have at least 2 parking spaces per unit, at least 1 of which is enclosed. There must be a fire wall with a rating of at least 1 hour separating every 4 parking stalls;

(c) Churches, clubs, and restaurants must have a number of parking spaces which is no less than the total designed seating capacity of the structure divided by 2.5, plus 1 parking space for each employee on the largest shift;

(d) Convalescent or nursing homes must have at least 1 space for every 5 beds, plus 1 space for every employee on the largest shift;

(e) Retirement homes must have at least 1 parking space for every 3 living units;

(f) Uses in the C District must have at least 1 parking space for every 300 square feet of gross floor area;

(g) Light industrial, manufacturing, testing, and research uses must have 1 space for every 1,000 square feet of building floor area;

(h) Warehousing, transfer, and storage uses must have at least 1 space per employee on the largest shift plus 1 parking space per company vehicle;

(i) Animal hospitals must have at least 4 parking spaces for every veterinarian, plus 1 space for every employee on the largest shift;

(j) Medical and dental offices must have at least 5 parking spaces for every doctor or dentist, plus 1 space for every employee on the largest shift;

(k) The parking requirements in the R/O District will be set by the City Council according to the expected demand for a particular facility; and

(l) Fast food, take out, and convenience restaurants must have at least 1 parking space for every 50 square feet of gross floor area, plus 1 parking space for every 3 seats, plus 1 parking space for every employee on the largest shift.

(6) The number of existing on-site parking spaces on a property may not be reduced below the number required under division (A)(5) above, except for nonresidential uses permitted under §§ 152.036 or 152.037, for which the City Council may establish a lower number of on-site parking spaces if the owner has demonstrated that a specific structure and use will not have an adverse effect on off-site parking in the vicinity of the property.

(7) Where parking is lighted, the light sources may not exceed 30 feet in height, nor may the light intensity exceed 1 footcandle measured at the property line.

(8) Any parking area or access drive constructed in any zoning district after 5-1-1987 must be paved with either asphalt or concrete.

(9) All parking must meet the city's grade requirements for proper drainage, and there must be approved curbing around the perimeter of all parking areas except in the R-1, R-1A, and R-2 Districts.

(10) Travel trailers, campers, and other recreational vehicles may not be parked in any zoning district for use as a dwelling or for sleeping or housekeeping purposes.

(11) As used in this division (A), **COMMERCIAL PARKING LOT** means any surface used for parking more than 3 vehicles in any zoning district except R-1 and R-2, including access drives. The construction of any commercial parking lot requires a building permit. The owner of any commercial parking lot must maintain it in a safe condition, and the maintenance will include sweeping to control dust, dirt and debris; seal coating at least once every 5 years; removal of snow; and the filling of holes caused by freezing and thawing as soon as practicable. Snow may be stored on the parking lot only if it does not obstruct the visibility of, or interfere with, vehicular or pedestrian traffic in the parking lot or access to the parking lot. No snow may be stored on the city right-of-way. All commercial parking lots must be supplied with appropriate trash and rubbish containers which are emptied as necessary. If an owner fails to comply with this division (A)(11), the city may give notice to the owner that the city will bring the property into compliance at the owner's expense if the owner has not done so within 30 days after the date of the notice. If the owner does not comply within the 30-day period, the city may cause the work to be done, and bill the owner for the reasonable value of the services. If the owner fails to pay for these improvements within 60 days, the city may proceed to levy a special assessment against the improved property pursuant to M.S. Chapter 429, as it may be amended from time to time.

(B) *Prohibited on-site parking.*

(1) In the C and LI Districts it is unlawful to park a vehicle in any of the following areas:

- (a) Within 5 feet of a side lot line;
- (b) Within 10 feet of the front property line; and/or
- (c) Within 10 feet of the rear lot line.

(2) Where an R-4, B, C, or LI District abuts an R-1, R-2, or R-3 District, it is unlawful to park a vehicle, or provide a parking space, on the R-4, B, C, or LI property closer than 20 feet from the R-1, R-2, or R-3 property.

(1993 Code, § 1650.05) Penalty, see § 10.99

(C) *Residential driveways.* All residentially zoned properties must comply with the following regulations.

(1) *Driveway width.* Residential driveways installed or modified after the date of adoption of the ordinance shall comply with the following standards:

(a) Driveways with a single driveway approach shall not exceed 40% of the width of the lot up to a maximum of 36 feet, whichever dimension is the smaller provided the driveway between the curb and right of way line does not exceed 28 feet in width.

(b) Circular driveways with driveway approach cuts serving the same lot shall not exceed the maximum 36 feet when both driveway approaches are combined.

(2) *Driveway setback.* Residential driveways enlarged or reconfigured after the date of Ordinance adoptions, shall be set back a minimum of 5 feet from the property lines, unless otherwise authorized by the City Engineer or Public Works Director in which case a driveway may be located a minimum of 3 feet from the property lines.

(3) *Required surface material.* All driveways and parking areas shall be of a hard surface. Hard surfaced areas shall consist of a durable material such as concrete, bituminous or pavers, but not including gravel or crushed rock.

(4) *Parking area.* One 400 square foot hard surface parking area adjacent to a garage or driveway for parking purposes shall be permitted. Such area shall not be located in front of the living area of the dwelling. The parking area shall be set back at least 10 feet from the corner side property lines and 5 feet from the interior property line, unless otherwise authorized by the City Engineer or Public Works Director in which case a parking area may be located a minimum of 3 feet from the interior property line.

(5) *Permit requirements.* All new driveways, alterations, or additions to existing driveways (not including pavement overlay or seal coating) shall require the issuance of a zoning permit. A fee as determined from time to time by the City Council shall be required to process the permit.

(Amended Ordinance 2013-05; 11/12/2013)

§ 152.180 CURB CUTS.

The City Council has the authority to limit the curb cuts serving a property or properties where the City Council deems it appropriate for safety reasons due to the traffic on abutting streets. No curb cut to a parking area may be more than 28 feet in width or as otherwise regulated by the County or State agency. Curb cuts on any 1 street must be at least 30 feet apart, unless curb cuts are to be used for 1-way traffic only and clearly designated as such, and except that residential driveways may be closer as long as they meet the requirements as designated in 152.180, C.. No C or LI use may have a curb cut within 30 feet of any residential district boundary, unless it is located across a street from the residential district boundary.

(1993 Code, § 1650.06) Penalty, see § 10.99; Amended Ordinance 2013-05; 11/12/2013)

§ 152.181 OFF-STREET LOADING DOCKS.

All loading docks must be off-street and must be attached to the building to be served. A loading dock may not be located closer than 25 feet to a street intersection, or 50 feet to a residential district, unless the loading dock is totally within a building. Loading docks may not be located within the required front yard setback space. Loading docks must be located in a manner which will least interfere with traffic. No portion of any truck trailers using a loading dock may project into a public street. All loading docks and accessways must be paved with concrete or bituminous surfacing.

(1993 Code, § 1650.07) Penalty, see § 10.99

§ 152.182 LANDSCAPING.

(A) *Existing trees and vegetation.* Existing healthy trees and native vegetation on a site are to be preserved to the maximum extent feasible during site development.

(B) *Landscaping plan.* Prior to issuance of a building permit for the development of property in any district, the owner must submit to the city for approval a landscaping plan showing:

(1) Placement and height of plantings and decorative features such as fences, walls, berms, and other landscaping features;

(2) Species, quantity and diameter of trees, grasses and shrubs;

(3) Areas to be left in their natural state and areas to be seeded or sodded;

(4) Dimension, descriptions, and other pertinent data identifying proposed special landscaping effects such as ponds, rock gardens, fountains, and other similar items; and

(5) When requested by the City Council, a grade and contour plan showing elevations at 2-foot intervals, or less where necessary, to identify pertinent site data (floor and spot elevations, critical points, drainage and other items).

(C) *Prohibited trees.* It is unlawful to plant any of the following trees in the city:

- (1) All elms (*Ulmus* all species);
- (2) Ginkgo/Maiden Hair female (*Ginkgo biloba*);
- (3) All red or black oaks (*Quercus* red species);
- (4) Boxelder (*Acer Negundo*);
- (5) Eastern Cottonwood (*Populus deltoides*); and/or
- (6) Lombardy Poplar (*Populus nigra italica*).

(D) *Planting of trees in right-of-way.* No trees may be planted in public rights-of-way, except by permission of the Public Works Director.

(E) *Dead or diseased trees.* If a building permit is issued for a building, all dead or diseased trees and stumps on the lot on which the building is to be constructed must be removed before completion of construction.

(F) *Berms.* The City Council may require earthen berms or other visual or acoustic barriers where there exists excess noise or potential visual blight.

(G) *Required tree plantings.* No less than the following number of trees having a diameter of at least 1-3/4 inches measured 1 foot above the ground will be planted in the development of any site within the city:

- (1) Single- and Two-Family Districts - no requirement;
- (2) R-3 and R-4 Districts require at least the following number of trees per building:
 - (a) Up to 6 units 6 trees;
 - (b) Six to 12 units 9 trees;
 - (c) Twelve to 25 units 12 trees; and
 - (d) Over 25 units 12 trees, plus 1 tree for every 5 units over 25.

(3) In the C and LI Districts the required trees, shrubs, and ground cover will be specified by the City Council based upon aesthetic considerations, the size and type of structure, and the available open space.

(1993 Code, § 1650.08) Penalty, see § 10.99

§ 152.183 SCREENING.

Screening may be accomplished with a wall, fence, berm, or other landscape feature, or plantings which will provide an opacity of 80% within 3 years of planting. Planting type and screen design are subject to Planning Commission review and City Council approval. Screening is required on B, C, or LI District property which abuts any property in a residential district. The City Council may require screening on R-4 District property which abuts R-1, R-1A, R-2, or R-3 District property. All exterior storage must be screened, except merchandise being displayed for sale or materials and equipment being used for construction on the premises.

(1993 Code, § 1650.09) Penalty, see § 10.99

§ 152.184 BOULEVARDS ON CORNER LOTS.

No new structure, fencing, grade elevation, or planting, in excess of 18 inches above the curb line, is permitted within the boulevard on corner lots in residential districts.

(1993 Code, § 1650.10) Penalty, see § 10.99

§ 152.185 RELOCATING BUILDINGS.

Structures to be relocated within the city must comply with the following.

(A) *Licensed mover.* Buildings may be moved only by a licensed building mover approved by the City Manager.

(B) *Public hearing.* A public hearing to consider the application for the permit will be held by the Planning Commission and notice of the hearing will be given in accordance with §§ 30.45 through 30.48. The Planning Commission will then make its recommendations to the City Council regarding the permit.

(C) *Permit.* The mover must complete a permit application specifying the origin and destination of the building, the proposed route, and the time of the move.

(D) *Relocated buildings.* The relocated building must comply with the zoning code and all other applicable codes.

(E) *Moving permit.* The owner of record will be charged a moving permit fee based upon the assessed valuation of the building as provided in the Uniform Building Code.

(F) *Codes and section compliance.* A building may not be occupied until it has been inspected by the city's Building Official and it has been determined that it complies with all applicable laws and regulations. (1993 Code, § 1650.11) Penalty, see § 10.99

§ 152.186 SOIL REMOVAL AND FILLING.

(A) Land reclamation and land removal and filling, grading, and excavation of beaches will be permitted only by permit issued by the City Council.

(B) An application for a permit must include the following and be accompanied by the fee set forth in Chapter 33:

- (1) The type of fill to be used;
- (2) A finished grade plan;
- (3) A program for rodent, fire, dust, and noxious weed control;
- (4) Controls for streets;
- (5) Controls for materials dispersed by wind or spillage;
- (6) Plans for maintenance of the site;
- (7) Plans for erosion control, including the proposed type of ground cover; and

(8) An assessment of the environmental impact upon wetlands, watercourses, and water ponding areas.

(1993 Code, § 1650.12) Penalty, see § 10.99

152.187 SOLAR ENERGY SYSTEMS

(A) *Purpose.* Regulations governing solar energy systems are established to provide for appropriate locations for solar energy systems, to ensure compatibility with surrounding uses, and to promote safe and effective use of solar energy to increase opportunities for generation of renewable energy. St. Anthony Village finds that it is in the public interest to encourage the use and development of renewable energy systems that enhance energy conservation efforts, but result in limited adverse impacts on nearby properties. As such, the City supports the use of solar energy systems.

(B) *Permitted Uses and Specific Standards*

(1) *In general.* Solar energy systems shall be permitted in those zoning districts where permitted as an accessory use, subject to the standards of this article. Solar collector surfaces and all mounting devices shall comply with the minimum yard requirements of the district in which they are located, unless otherwise specified herein. Screening of solar collector surfaces shall not be required, except as required in Section 152.187 (C) 1.

(2) Building-mounted solar energy systems.

(a) Zoning district standards.

(1) Residential zoning districts. Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall be constructed and maintained at or below the ridge level of a roof on a structure with a gable, hip, or gambrel roof as long and not visible from the nearest edge of the street frontage right-of-way other than an alley.

Building- mounted solar energy systems that are visible from the nearest edge of the street frontage right-of-way shall be flush-mounted and not have a highest finished pitch steeper than the roof pitch on which the system is mounted, and shall be no higher than twelve (12) inches above the roof surface. Solar energy systems on all accessory structures shall be flush-mounted, regardless of the location on the structure.

Building integrated solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setbacks, land use or performance standards for the district in which the building is located.

(2) Commercial, industrial and recreational open space (ROS) zoning districts. Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall be constructed and maintained at or below the ridge level of a roof on a structure with a gable, hip, or gambrel roof and shall not extend higher than ten (10) feet above the surface of the roof when installed on flat or shed roof.

(b) The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one (1) foot from the exterior perimeter of a roof for every one (1) foot that the system extends above the roof surface on which the system is mounted to ensure ready roof access in the event of a fire or other safety related occurrence whereby roof access is needed. Solar energy systems that extend less than one (1) foot above the roof surface shall be exempt from this provision, however shall be set back from the roof edge by a minimum of 1 foot.

(c) The collector surface and mounting devices for building-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.

(d) Solar energy systems shall be designed to blend into the architecture of the building to the maximum extent practical. The color of the solar collector is not required to be consistent with the roofing materials.

(e) Building-mounted systems, excluding building-integrated systems, shall not cover more than 80% of the roof upon which the panels are mounted to ensure ready roof access in the event of a fire or other safety occurrence whereby roof access is needed.

(f) A conditional use permit is required for any solar installations in the commercial district, subject to the conditions and criteria for review in accordance with Section 154.243 (C) of the City Code.

(3) *Freestanding solar energy systems.*

(a) Freestanding solar energy systems, measured to the highest point of the system, shall not exceed ten (10) feet in height and shall meet double the minimum setback requirements of an accessory structure as outlined in §152.176, as measured from the outermost perimeter of the solar panel to the property line. Freestanding solar energy systems are only permitted in rear yards.

(b) In all residential districts, the area of the solar collector surface of freestanding solar energy systems shall not exceed three (3) percent of the lot area. In all other districts, the area of the solar collector surface of freestanding solar energy systems shall not exceed five (5) percent of the lot area. Notwithstanding any other provision to the contrary, the maximum area of solar energy systems shall be calculated independently of the floor area of all other accessory structures on the zoning lot.

(c) The supporting framework for freestanding solar energy systems shall not include unfinished lumber.

(4) *Lightpole mounted solar energy systems.*

(a) Any solar installation on a light pole shall require the issuance of a conditional use permit, and shall take into account the surrounding land uses, the proposed visual impact, and the structural integrity relative to size and height of the proposed solar installation. No lightpole mounted solar installation shall exceed 3 square feet in size.

(C) *Design and Performance Standards. In addition to the standards required above, the following standards shall apply to all solar energy systems.*

(1) *Compatibility with nearby properties.* The visual impact of rooftop equipment on nearby properties shall be minimized through such means as location on the roof, flush-mounting to the roof, screening, or other integration into the roof design. Screening shall be of durable permanent materials that are compatible with the primary building materials. Screening shall be done to the extent possible without reducing the systems efficiency.

(2) *Feeder lines.* Any lines accompanying a solar energy systems, other than those attached to on-site structures by leads, shall be buried within the interior of the subject parcel, unless there are existing lines in the area which the lines accompanying a solar energy system can be attached. The Zoning Administrator may grant exemptions to this requirement in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

(3) *Maintenance.* Solar energy systems shall be kept in good repair and free from damaged supports, mounts, framework, or other components.

(4) *Abandonment.* A solar energy system that is allowed to remain in a nonfunctional or inoperative state for a period of twelve (12) consecutive months, and which is not brought in operation within the time specified by the City shall be presumed abandoned and may be declared a public nuisance subject to removal at the expense of the operator.

(5) *Compliance.* All solar energy systems shall be designed, constructed, and operated in compliance with any applicable federal, state, and local laws, codes, standards, and ordinances, as well as adhere to the requirements of local utilities if connected to utility lines, including, but not limited to the State of Minnesota Building Code, Minnesota State Electric Code, and Minnesota State Plumbing Code.

(6) *Interference.* Solar energy systems shall be designed to not cause electrical, radio frequency, television, and other communication signal interference.

(7) *Installation.* Solar energy systems shall require the issuance of a building permit.

(8) The structure upon which the solar energy system is mounted shall have the structural integrity to carry the weight of the solar energy system. Proof of structural integrity shall be submitted to the satisfaction of the building inspector

(D) *Administrative Review Process*

(1) *In general.* Applications that meet the design requirements of this policy shall be granted administrative approval by the Zoning Administrator or other Authorized Agent. Plan approval does not indicate compliance with Building Code or Electric Code. All systems shall comply with the Minnesota State Building and Electric Code.

(2) *Submittal requirements.* An application for a solar energy system shall be filed on a form provided by the City. In addition, the applicant shall submit the following:

(a) Plan application for solar energy systems shall be accompanied by scaled horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building, or on the property for a ground-mounted system, including the property lines.

1. For all building-mounted systems other than a flat roof the elevation drawings shall show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
2. For flat-building-building systems a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

(b) Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install a solar energy system, unless the applicant does not plan, and so states so in the application, to connect the system to the electricity grid.

(c) Written evidence that the electric solar energy system components have a UL listing.

(E) *Solar access.* Solar access easements may be filed consistent with Minn. Statute Section §500.30 as may be amended from time to time. Any property owner may purchase an easement across nearby properties to protect access to sunlight. The easement is purchased or granted by owners of nearby properties and can apply to buildings, trees, or other structures that would diminish solar access.

(F) *Legal, non-conformities.* Solar energy systems in existence prior to adoption of this ordinance shall be permitted to exist and be repaired in their current form. However, any changes, expansions, or upgrades in the solar energy system, that would require a building permit, shall necessitate conformance with this section.

(Am. Ord. 2015-04)

152.188 CANNABIS FACILITIES (AKA MARIJUANA DISPENSARY)

(A) Cannabis Facilities are prohibited in all districts.

(B) The prohibition on Cannabis Facilities shall not be construed to prohibit any health care practitioner from writing a prescription for medical cannabis or any patient or registered designated caregiver from possessing and administering medical cannabis in compliance with the law. (Am. Ord 2016-01 Adopted 3-8-2016)

152.189 TEMPORARY FAMILY HEALTH CARE DWELLINGS

Saint Anthony Village Opts-out of Minnesota Statutes, Section 462.3593. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Saint Anthony Village opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings. (Ord. 2016-04, Adopted 7-26-16)

§ 152.200 PURPOSE.

The purpose of this subchapter is to provide for planned unit developments within the city.
(1993 Code, § 1655.01)

§ 152.201 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEVELOPER. The owner of the property, or a person or entity authorized in writing by the owner of the property to file the applications for the PUD and who will become the owner of the property prior to any development of the property.

DEVELOPMENT REVIEW COMMITTEE. A committee as appointed by the City Manager from time to time to conduct a review of all development plans for any PUD.

FINAL DEVELOPMENT PLAN. A final development plan based upon the preliminary development plan and presented by a PUD applicant as provided in § 152.209(D), and including the requirements set forth in § 152.209(E).

PRELIMINARY DEVELOPMENT PLAN. A formal development plan in preliminary form presented by a PUD applicant as provided in § 152.209(C), and including the requirements set forth in § 152.209(E).

PROPERTY. All land included within the PUD.

PUD. A zoning district and development plan which may include single or mixed uses, and 1 or more lots or parcels, and which is intended to create a more flexible, creative, and efficient approach to the use of land. Any PUD shall be subject to the procedures, standards, and regulations contained in this subchapter. A PUD site must be at least 3 acres in size, and applications for PUD approval will not be considered for sites of less than 3 acres.

PUD AGREEMENT. The agreement to be entered into between the developer and the city to incorporate all term, requirements, and conditions of the PUD approval.

SKETCH PLAN. An informal development plan presented by a PUD applicant as provided in § 152.209(B).
(1993 Code, § 1655.02)

§ 152.202 AUTHORIZATION.

A PUD approval may allow the following:

(A) *Variety.* Within a comprehensive site design concept, a mixture of land uses, housing types and densities;

(B) *Sensitivity*. Through the departure from the strict application of required setbacks, yard areas, lot sizes, minimum house sizes, minimum requirements, and other performance standards associated with traditional zoning, a PUD can maximize the development potential of land while remaining sensitive to its unique and valuable natural characteristics;

(C) *Efficiency*. The consolidation of areas for recreation and reductions in street lengths and other utility-related expenses;

(D) *Density transfer*. The project density may be clustered, basing density on a number of units per acre in place of specific lot dimensions; and

(E) *District integration*. The combination of uses which are allowed in separate zoning districts such as:

(1) Mixed residential uses to allow both densities and unit types to be varied within the project;

(2) Mixed residential uses with increased density based upon the greater sensitivity of PUD projects to regulation; and

(3) Mixed land uses with the integration of compatible land uses within the project.
(1993 Code, § 1655.03)

§ 152.203 ALLOWED USES.

Uses within a PUD may include only those uses generally considered associated with the general land use category shown for the area on the official Comprehensive Land Use Plan. However, in some unique situations, the PUD may allow the approval of use or uses that are not listed as either permitted or conditional uses in any underlying zoning district. The specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and development plan. The PUD development plan shall identify all the proposed land uses, which shall become permitted uses if the final development plan is approved. Any change in the uses presented in the final development plan will be considered an amendment to the PUD and must follow the procedures specified in this subchapter.
(1993 Code, § 1655.04) Penalty, see § 10.99

§ 152.204 REQUIRED STANDARDS.

The city shall consider a proposed PUD from the point of view of all standards and purposes of the Comprehensive Land Use Plan to achieve a maximum coordination between the proposed development and the surrounding uses, the conservation of woodlands and wetlands, and the protection of health, safety, and welfare of the community and residents of the PUD. To these ends, the City Council shall consider the location of the buildings, compatibility, parking areas, and other features with respect to

the topography of the area and existing natural features such as streams and large trees; the efficiency, adequacy, and safety of the proposed layout of internal streets and driveways; the adequacy and location of green areas; the adequacy, location, and screening of parking areas; and any other matters as the City Council may find to have a material bearing upon the stated standards and objectives of the Comprehensive Land Use Plan.

(1993 Code, § 1655.05)

§ 152.205 COORDINATION WITH SUBDIVISION REGULATIONS.

If a PUD involves the subdivision of land, then the subdivision review shall be carried out under Chapter 151 simultaneously with the review of the PUD. The plans required under this subchapter shall be submitted in a form which will satisfy the requirements of Chapter 151 for the preliminary plat and final plat.

(1993 Code, § 1655.06)

§ 152.206 REVISIONS AND/OR CHANGES.

(A) *Minor changes in location, placement, and height.* Minor changes in the location, placement, and height of structures may be authorized by the Development Review Committee if required by engineering or other circumstances not foreseen at the time the final plan was approved and filed with the Zoning Administrator.

(B) *Significant changes in use, location, size, and height.* Changes in uses, significant changes in location, size, or height of structures, any rearrangement of lots, blocks, and building tracts, changes in provision of common open spaces and all other changes to the approved final development plan may be made only after a public hearing conducted by the Planning Commission. Upon determination by the Development Review Committee that a major change has been proposed, the developer shall apply for an amended PUD. The application to amend the PUD shall be treated as a new zoning application. Upon acceptance of a complete application, the Planning Commission shall hold a hearing as set forth in §§ 30.45 through 30.48. Any changes shall be recorded as amendments to the recorded copy of the final development plan.

(C) *Provisions of original district apply.* All of the provisions of the zoning district within which the PUD is established shall apply to the amended PUD except as otherwise provided in approval of the final development plan. The effective date of the PUD shall be after:

- (1) Approval of the PUD amendment and text and final development plan; and
- (2) Publication of the ordinance.

(D) *Review.* If substantial development has not occurred within a reasonable time after approval of the PUD, the City Council may instruct the Planning Commission to initiate rezoning to the original zoning district. It shall not be necessary for the City Council to find that the rezoning was in error.

(E) *Formal review periods.* Within the PUD Agreement, the city may schedule formal City Council review periods on an annual or less frequent basis to ascertain that actual development on the site meets the conditions of the approved PUD.

(1993 Code, § 1655.07)

§ 152.207 PHASING AND GUARANTEE OF PERFORMANCE.

(A) *Comparison with approved development schedule.* The Planning Commission shall compare the actual development accomplished in the various portions of the PUD with the approved development schedule.

(B) *Extension of limits of development schedule.* Upon recommendation of the Planning Commission and for good cause shown by the developer, the City Council may extend the limits of the development schedule.

(C) *Construction rates of dwelling and open space.* The construction and provision of all of the common open space and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units, if any. The Development Review Committee shall review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If they find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, they shall forward this information to the City Council for action.

(D) *Security.* A letter of credit in form acceptable to the city shall be required to guarantee performance by the developer. The amount of the letter of credit and the specific elements of the development program that it is intended to guarantee will be stipulated in the PUD Agreement.

(1993 Code, § 1655.08)

§ 152.208 CONTROL OF PUD FOLLOWING COMPLETION.

(A) *Final development plan governs.* After a certificate of occupancy has been issued for all or any portion of a PUD, the use of the land covered by the certificate of occupancy and the construction, modification, and alteration of any buildings or structures within the PUD shall be governed by the final development plan.

(B) *Changes after issuance of certificate of occupancy.* After a certificate of occupancy has been issued for all or any portion of a PUD, no changes shall be made in the approved final development plan except upon application as provided below.

(1) Any minor extensions, alterations, or modifications of existing buildings or structures may be authorized by the Development Review Committee if they are consistent with the purposes and intent of the final development plan. No change authorized by this section may increase the mass or volume of any building or structure by more than 10%.

(2) Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under this subchapter.

(3) Changes in the use of the common open spaces may be authorized by an amendment to the final development plan by the City Planning Commission after a public hearing as provided in §§ 30.45 through 30.48 and without all the documents necessary for the original application.

(4) Any other changes in the final development plan must be authorized by an amendment of the final development plan under this subchapter.
(1993 Code, § 1655.09)

§ 152.209 PROCEDURE FOR PROCESSING A PUD.

(A) *Application conference.* Upon filing of an application for a PUD, the developer shall arrange for and attend a conference with the Development Review Committee. The primary purpose of the conference shall be to provide the developer with an opportunity to gather information and obtain guidance as to the general suitability of developer's proposal for the area for which it is proposed and its conformity to the provisions of this subchapter before incurring substantial expense in the preparation of plans, surveys, and other data.

(B) *Sketch plan.* The sketch plan provides an opportunity for an applicant to submit an informal plan to the city showing the applicant's basic intent and general nature of the development. The sketch plan is optional and is intended to provide feedback from the Planning Commission before the applicant incurs substantial cost in the preparation of formal plans. The sketch plan shall be considered a partial, incomplete application prior to formal submittal of the complete application and scheduling of hearings.

(C) *Preliminary development plan.* The purpose of a preliminary development plan is to formally present a PUD application, and a preliminary plat application if subdivision of land is a part of the PUD, in a public hearing before the Planning Commission as set forth in §§ 30.45 through 30.48. The plan shall include the following:

- (1) Overall maximum PUD density range;
- (2) General location of major streets and pedestrian ways;
- (3) General location and extent of public and common and open space;
- (4) General location of residential and nonresidential land uses with approximate type of intensities of development;
- (5) Staging and time schedule of development; and

(6) Other special criteria for development.

(D) *Final development plan.* Following approval of the preliminary development plan, the applicant shall submit an application for the final development plan, and a final plat if subdivision of land is a part of the PUD. The application shall proceed and be acted upon in accordance with § 152.202 for zoning district changes. If appropriate, because of the limited scale of the proposal, the Development Review Committee may permit the preliminary development plan and final development plan to proceed through the review and approval processes simultaneously.

(E) *Procedures.* The procedures to be followed by the applicant with respect to a PUD, shall be as follows.

(1) *Schedule.*

(a) Developer shall meet with the Development Review Committee to discuss the proposed developments.

(b) The developer shall file the preliminary development plan application and preliminary plat, if any, together with all supporting data.

(c) Within 30 days after verification by the City Manager that the required plan and supporting data is adequate, the Planning Commission shall hold a public hearing as provided for in §§ 30.45 through 30.48.

(d) The Planning Commission shall conduct the hearing and report its findings and make recommendations to the City Council. The procedure shall be that set forth in §§ 30.45 through 30.48.

(e) The city may request additional information from the developer concerning operational factors or retain expert testimony at the expense of the developer concerning operational factors.

(f) If the Planning Commission fails to take action on the matter on or before a date 14 days after the initial hearing, then the City Council may proceed as provided for in §§ 30.45 through 30.48 without the Planning Commission's recommendation. The City Council shall assign an ordinance numerical reference to each final development plan and PUD Agreement text approved. The City Council may attach the additional conditions as it deems reasonable. Approval shall require a 4/5 vote of the entire City Council. After approval by the City Council, the PUD zoning ordinance map amendment shall be published, with reference made to the PUD Agreement text. The developer shall be responsible for recording the ordinance and PUD agreement in the office of the Hennepin or Ramsey County Recorder and/or Registrar of Titles prior to issuance of any building permit or within 60 days, whichever is less. The official PUD ordinance and PUD Agreement shall also be filed in the City Manager's office.

(2) *Application.* Ten copies of the preliminary development plan, including all of the following exhibits, analyses, and plans, shall be submitted to the city:

(a) Preliminary plat for any land being subdivided and information required by Chapter 151;

(b) General information:

1. The landowner's name and address and the landowner's interest in the property;
2. The developer's name and address if different from the landowner;
3. 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;
4. Evidence that the developer has sufficient control over the property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy, and contractual interests held in or affecting the property and including an up-to-date certified abstract of title or registered property report and any other evidence as the City Attorney may require to show the status of title or control of the property; and
5. Evidence that the property is not less than 3 acres in area.

(c) Present status:

1. The address and legal description of the property;
2. The existing zoning classification and present use of the property and all lands within 1,000 feet of the property;
3. A map depicting the existing development of the property and all land within 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 100 feet of the property;
4. 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 city's 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;
5. Site conditions: graphic reproductions of the existing site conditions at a scale of 1 inch equals 100 feet:
 - a. Contours; minimum 2-foot intervals;

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- b. Area devoted to residential 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;
 - g. Approximate area and floor area devoted to commercial uses;
 - h. Approximate area and floor area devoted to industrial or office use; and
 - i. Total area of the property.
6. 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 the stages or units shall be submitted stating the approximate beginning and completion date for each 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 stage and overall chronology of development to be followed from stage to stage;
7. 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 the open space or service facilities;
8. Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD;
9. Schematic utilities plans indicating placement of water, sanitary, and storm sewers;
10. The city may excuse a developer from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal; and
11. The city may require the submission of any additional information or documentation which it may find necessary.
- (d) The final development plan submission should depict and outline the proposed implementations of the preliminary development plan for the PUD. Information from the preliminary development plan may be included for background and to provide a basis for the submitted plan. The final development plan submissions shall include, but not be limited to:

1. A final plat for any land to be subdivided and information required by Chapter 151;
2. Ten sets of preliminary plans drawn to a scale of not less than 1 inch equals 100 feet (or other scale requested by the City Manager) containing at least the following information:
 - a. Proposed name of the development, which shall not duplicate nor be similar in pronunciation to the name of any plat previously recorded in the county where the property is situated;
 - 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, including mobile homes, 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 circulation 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. The location use and size of structures and other land uses on adjacent properties;
 - i. Detailed sketches and provisions of proposed landscaping;
 - j. General grading and drainage plans for the developed PUD; and
 - k. Any other information that may have been required by the Planning Commission or county board in conjunction with the approval of the preliminary development 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 number of residential dwelling units and expected population;

6. Preliminary architectural “typical” plans indicating use, floor, plan, elevations, and exterior wall finishes of proposed building, 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, block, 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 final development plan should clearly reflect the site treatment and its conformance with the approved preliminary development plan;
9. A final plat prepared in accordance with Chapter 151 if land is being subdivided;
and
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.
(1993 Code, § 1655.10)

NONCONFORMING USES, STRUCTURES AND LOTS

§ 152.225 INTENT FOR NONCONFORMING USES AND STRUCTURES.

It is the intent of this subchapter to permit and recognize the existence of nonconforming uses and structures which were lawful when established but which no longer meet all ordinance requirements, as defined in § 152.003, to continue until they are removed, to encourage the elimination of nonconformities or reduce their impact on adjacent properties, to discourage the enlargement, expansion, intensification or extension of nonconformities, and to regulate the repair, replacement, restoration, and improvement of nonconformities to prevent and abate nuisances and to protect the public health, safety, or welfare,
(1993 Code, § 1660.01) (Am. Ord. 2014-01, passed 4-8-2014)

§ 152.226 LIMITED CONTINUATION.

Except as otherwise provided by law, any nonconformity, including a nonconforming use or occupation of land or premises, may be continued, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, unless:

(A) *Change to conforming use.* The property used for a nonconforming use is subsequently used for a conforming use.

(B) *Discontinued use.* The nonconformity or occupancy is discontinued for a period of more than 1 year.

(C) *Destruction of building.* Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of the estimated market value, as indicated by the records of the County Assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged.

(1993 Code, § 1660.02) (Am. Ord. 2011-05, passed 6-28-2011) Penalty, see § 10.99

An expansion of any nonconformity use or structure may not be done without first obtaining a variance pursuant to §152.245.

(Am. Ord. 2014-01, passed 4-8-2014)

§ 152.227 INTENT FOR NONCONFORMING LOTS OF RECORD.

It is the intent of this subchapter to permit nonconforming lots of record, as defined in §152.008, to continue to be used for the legal use for which it is zoned in accordance with the criteria for continuance as specified in this Code. Nonconforming lots of record within the shoreland area must conform to the provisions as outlined in Minn. Stat. §462.357, Subd. 1e. A lawful conforming lot of record shall be deemed buildable, without a variance. If, a group of two or more undeveloped, vacant and contiguous lots under common ownership, any individual lot does not meet the minimum dimensional requirements must be combined with the one or more contiguous lots. All additions or expansion to a structure on a nonconforming lot of record shall meet the setback, height, density, and other requirements of the Code. Any deviation from the requirements of the Code may not be done without first obtaining a variance pursuant to §152.245.

(Am. Ord. 2014-01, passed 4-8-2014)

ADMINISTRATION

§ 152.240 ZONING OFFICER.

(A) The City Manager may act as, or may appoint, the City Zoning Officer.

(B) The Zoning Officer will have the responsibility of enforcing and administering the zoning code and performing the following duties:

(1) Review all applications pertaining to property use and approve applications when they conform with the zoning code;

(2) Periodically inspect property to determine compliance with the zoning code;

(3) Give written notice to persons violating the zoning code, stating the nature of the violation and ordering the action necessary to correct it; and

(4) Maintain records relating to the zoning code, including all maps, amendments, conditional use permits, variances, nonconforming uses, and files pertaining to all permits and violations.

(1993 Code, § 1665.01)

§ 152.241 PLAN REVIEW.

(A) All plans for structures and uses regulated by the zoning code must be reviewed by the appropriate city official. If required by this code or state law, the plans and uses will also be reviewed by the Planning Commission and City Council before a building permit is issued. Plans for structures in the R-3, R-4, R/O, C, and LI Districts will be reviewed by the Zoning Officer for compliance with the zoning code.

(B) The city shall have the authority to charge applicants for the costs that the city incurs in reviewing applications.

(1993 Code, § 1665.02)

§ 152.242 REZONING AND AMENDMENTS.

(A) *Initiation of proceedings.* Proceedings for amendment of the zoning code may be initiated by a petition of the owners of property to be rezoned or affected by amendment; a recommendation by the Planning Commission; or action of the City Council.

(B) *Submission requirements.* All applications by a property owner for changes in zoning must be accompanied by a drawing showing the property to be affected and all property within 350 feet of the boundaries of the affected property, a statement as to why the zoning change is requested, and the fee set forth in Chapter 33. The application will be referred by the Zoning Officer to the Planning Commission for a public hearing.

(C) *Public hearing.* The public hearing will be held by the Planning Commission. Notice of the hearing will be given in accordance with §§ 30.45 through 30.48. The Planning Commission will then make a recommendation to the City Council on the proposed changes.

(D) *City Council action.* A majority affirmative vote of all members of the City Council is required to approve any rezoning or any other change in the zoning code, except that the adoption or amendment of any portion of the zoning code that changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a 4/5 majority vote of all members of the City Council.

(E) *Planned unit development.* In a proceeding for the rezoning of a property under this section, if the property is 3 acres or more in area and if the proceeding is pursuant to a petition by the owner of the property to be rezoned, the City Council may require that the property be designated as a planned unit development under §§ 152.200 through 152.209, in which case the City Council may also require the property owner to submit an application for a planned unit development approval in accordance with §§ 152.200 through 152.209.
(1993 Code, § 1665.03)

§ 152.243 CONDITIONAL USE PERMITS.

(A) *Procedure.* An application for a conditional use permit is to be made on forms available from the Zoning Officer and must be signed by the owner of the property in question. The application must be accompanied by a fee in the amount set forth in Chapter 33. The applicant may be required to provide concept and final site plans, if requested by the Zoning Officer.

(B) *Public hearing.* The public hearing will be held by the Planning Commission. Notice of the hearing will be given in accordance with §§ 30.45 through 30.48. The Planning Commission will then make a recommendation to the City Council on the proposed changes.

(C) *City Council action.* A conditional use permit may be granted only by a majority vote of all members of the City Council after determining that:

(1) The use is one of the conditional uses specifically listed for the district in which the property is located;

(2) The City Council has specified all conditions which the City Council deems necessary to make the use compatible with other uses in the area;

(3) The use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or to the values of property in the vicinity; and

(4) The use will provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare.

(D) *Expiration.* A conditional use permit authorizing the erection or alteration of a building will expire if construction has not commenced within 12 months after the conditional use permit is approved by the City Council.

(1993 Code, § 1665.04)

§ 152.244 BOARD OF ADJUSTMENTS AND APPEALS.

(A) *Composition.* The Board of Adjustments and Appeals will be comprised of all the members of the Planning Commission, with 1 member serving as Chair.

(B) *Powers and duties.* The Board will hear and make recommendations to the City Council regarding variances and appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Officer or a city staff member in the enforcement of the zoning code.

(1993 Code, § 1665.05)

§ 152.245 VARIANCES.

(A) *Application.* An owner of property with an existing structure which does not comply with the zoning code, or of property on which such a structure is proposed to be constructed, may apply for a variance upon payment of the fee specified in Chapter 33.

(B) *City Council approval.* Variances to the dimensional provisions of the zoning code may be granted by the City Council upon recommendation of the Board of Adjustments and Appeals, after a hearing is held by the Board of Adjustments and Appeals. Variances will not be granted with respect to uses. A majority affirmative vote of City Council members present is required to approve a variance.

(C) *Evidence.* No variance will be granted unless the evidence presented discloses all of the following facts.

(1) The subject matter of the application is within the scope of this section.

(2) Strict enforcement would cause practical difficulties because:

(a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;

(b) The plight of the property owner is due to circumstances unique to the property not created by the property owner;

(c) The variance, if granted, will not alter the essential character of the locality; and

(d) Economic considerations alone are not the basis of the practical difficulties.

(3) The variance, if granted, would be consistent with the city's comprehensive land use plan.

(4) The granting of the variance is in harmony with the general purposes and intent of the zoning code.

(D) *Planning Commission recommendation.* The Planning Commission will consider the application at a public hearing at any regular or special meeting. Notice for the hearing will be given in accordance with §§ 30.45 through 30.48. The Planning Commission, sitting as the Board of Adjustments and Appeals, will make a recommendation to the City Council as follows:

(1) Recommend that the variance application be granted because the evidence considered at the meeting supports each of the findings required under division (C) above; and/or

(2) Recommend that the variance application be denied because the applicant did not present sufficient evidence for the Planning Commission to make all of the findings required under division (C) above.

(E) *City Council consideration.* After the minutes of the Planning Commission meeting have been forwarded to the City Council, the City Council will consider the application and recommendation of the Planning Commission. Within 60 days after its first consideration, the City Council will by motion grant or deny the application according to the provisions of division (C) above and will make a record in the minutes stating its conclusions with respect to each of the findings required under division (C) above.

(F) *Expiration of variance.* If a variance is granted but the building or other structure permitted by the variance is not constructed within 1 year from the date the variance is granted, the variance will expire and will be of no further force or effect.

(1993 Code, § 1665.06) (Am. Ord. 2011-06, passed 6-28-2011)

CHAPTER 153: STORM WATER MANAGEMENT

Section

- 153.01 Statutory authorization
- 153.02 Findings
- 153.03 Purpose
- 153.04 Definitions
- 153.05 Scope and effect
- 153.06 Plan approval procedures
- 153.07 Plan review procedure
- 153.08 Approval standards
- 153.09 Other controls

§ 153.01 STATUTORY AUTHORIZATION.

This chapter is adopted pursuant to M.S. §§ 462.351 through 462.365, as they may be amended from time to time.

(1993 Code, § 1675.01)

§ 153.02 FINDINGS.

The city hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils, adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the city to provide adequate water, sewage, flood control, and other services.

(1993 Code, § 1675.02)

§ 153.03 PURPOSE.

The purpose of this chapter is to address the findings in § 153.02 and to promote, preserve, and enhance the natural resources within the city.

(1993 Code, § 1675.03)

§ 153.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any person who wishes to obtain a building permit, zoning or subdivision approval.

CONTROL MEASURE. A practice or combination of practices to control erosion and attendant pollution.

DETENTION FACILITY. A permanent natural or human-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.

FLOOD FRINGE. The portion of the flood plain outside of the flood way.

FLOOD PLAIN. The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

FLOOD WAY. The channel of the watercourse, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge flood water and provide water storage during a regional flood.

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.

LAND DISTURBING OR DEVELOPMENT ACTIVITIES. Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.

PERSON. Any individual, firm, corporation, partnership, franchisee, and association.

PLAN. A storm water management plan governed by this chapter.

PUBLIC WATERS. Waters of the state as defined in M.S. § 103G.005, Subd. 15, as it may be amended from time to time.

REGIONAL FLOOD. A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

RETENTION FACILITY. A permanent natural or human-made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

SEDIMENT. Solid matter carried by water, sewage, or other liquids.

STRUCTURE. Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

THIS CHAPTER. This Chapter 153.

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 definition, **WETLANDS** must have the following 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; and
 - (3) Under normal circumstances support a prevalence of the vegetation.
- (1993 Code, § 1675.04)

§ 153.05 SCOPE AND EFFECT.

(A) *Applicability.* Every applicant for a building permit, subdivision approval, or a permit in the Commercial, Industrial, R-3, and R-4 Zoning Districts of the city must submit a Storm Water Management Plan to the Public Works Director. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the plan or a waiver of the approval requirement has been obtained under this chapter.

(B) *Exemptions.* The provisions of this chapter do not apply to fences, signs, or poles or emergency work, or to the following items if approved before the effective date of this chapter:

- (1) Any part of a subdivision approved by the City Council before the effective date of this chapter;
 - (2) Any land disturbing activity for which plans have been approved by the watershed management organization;
 - (3) A lot for which a building permit has been approved; and
 - (4) Building permits issued in the R-1, R-1A, or R-2 Zoning District. In these districts, the property owner must obtain prior approval from only the Public Works Director of a storm water plan appropriate in scale and scope to the proposed activity when it is over one acre in size.
- (1993 Code, § 1675.05)

§ 153.06 PLAN APPROVAL PROCEDURES.

(A) *Application.* Any plan and an application for its approval shall be filed with the Public Works Director. It must state the grounds for approval, that the proposed use is permitted by the zoning ordinances, and adequate evidence that the proposed use will conform to this chapter. Prior to applying, an applicant may have the plan reviewed by the appropriate departments of the city. The applicant must submit 2 sets of clearly legible blue or black lined drawings in appropriate scale (not less than 1 inch equals 100 feet) and the required additional information with evidence of payment of all fees required under § 153.07.

(B) *Plan.* At a minimum, the plan shall contain the following information.

(1) *Existing site map.* A map of existing site conditions showing the site and immediately adjacent areas, including:

(a) The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;

(b) Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving the information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;

(c) Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than 2 feet;

(d) A delineation of all streams, rivers, public waters, and wetlands located on and immediately adjacent to the site;

(e) Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where storm water collects;

(f) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed;

(g) Vegetative cover and clearly delineating any vegetation proposed for removal; and

(h) One hundred year flood plains, flood fringes, and flood ways.

(2) *Site construction plan.* A site construction plan, including:

(a) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;

(b) Locations and dimensions of all temporary soil or dirt stockpiles;

(c) Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this chapter;

(d) Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this chapter; and

(e) Provisions for maintenance of the construction site erosion control measures during construction.

(3) *Drawing of final site conditions.* A drawing of final site conditions on the same scale as the existing site map showing the site changes, including:

(a) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;

(b) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size, and description of all proposed landscape materials which will be added to the site as part of the development;

(c) A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;

(d) The proposed size, alignment, and intended use of any structures to be erected on the site;

(e) A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

(f) Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.
(1993 Code, § 1675.06)

§ 153.07 PLAN REVIEW PROCEDURE.

(A) *Process.* Plans meeting the requirements of § 153.06 shall be submitted by the Public Works Director to the Planning Commission for review under § 153.08. The Commission shall recommend approval, approval with conditions, or denial. Following Planning Commission action, the plan shall be submitted to the City Council at its next available meeting. City Council action on the plan must be accomplished within 120 days following the date the application is filed with the Public Works Director.

(B) *Duration.* Approval of a plan shall expire 1 year after the date of approval unless construction has commenced in accordance with the plan, unless the applicant makes a written request to the Public Works Director for an extension of setting forth the reasons for it. The Public Works Director shall make a decision on the extension within 30 days. The Public Works Director may grant 1 extension of not more than 12 months. Any plan may be revised in the same manner as originally approved.

(C) *Conditions.* A plan may be approved subject to conditions related to the requirements of this chapter. The conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance to the city or other public entity of certain lands or interests therein.

(D) *Security.* Prior to approval, the applicant shall execute an agreement in form acceptable to the City Council to construct any required improvements, to dedicate property or easements, and to comply with any required conditions. The agreement must be accompanied by cash or a letter of credit in form and amount determined by the City Council sufficient to secure performance of the applicant's obligations.

(E) *Fees.* All applications for plan approval shall be accompanied by a processing and approval fee of \$150.

(1993 Code, § 1675.07)

§ 153.08 APPROVAL STANDARDS.

(A) *Requirements.* The standards contained in this chapter must be met to the degree required by the City Council.

(B) *Site dewatering.* Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-calclines, swirl concentrators or other controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

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

(D) *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.

(E) *Drain inlet protection.* All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence, or equivalent barrier meeting accepted design criteria, standards, and specifications contained in the Minnesota Pollution Control Agency publication *Protecting Water Quality in Urban Areas*.

(F) *Site erosion control.* The requirements of this division (F) apply only to construction activities that result in runoff leaving the site.

(1) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocity of less than 0.5 ft./sec. across the disturbed area for the 1-year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.

(2) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any 1 time.

(3) Runoff from the entire disturbed area on the site shall be controlled by meeting either divisions (F)(3)(a) and (F)(3)(b) or divisions (F)(3)(a) and (F)(3)(c).

(a) All disturbed ground left inactive for 14 or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.

(b) For sites with more than 3 acres disturbed at 1 time, or if a channel originates in the disturbed area, 1 or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least 3 feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of 3 feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

(c) For sites with less than 10 acres disturbed at 1 time, silt fences, straw bales, or equivalent control measure shall be placed along all side slope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measure must include a maintenance and inspection schedule.

(4) If remaining for more than 7 days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than 7 days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than 7 days, and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers.

(G) *Storm water management criteria for permanent facilities.* Storm water management criteria for permanent facilities shall be in conformance with the city's current Comprehensive Water Resource Management Plan.

(H) *Design standards.* Storm water detention facilities constructed in the City of St. Anthony shall be designed in conformance with the city's current Comprehensive Water Resource Management Plan.

(I) *Wetlands.* Wetlands shall be maintained and protected in conformance with the city's current Comprehensive Storm Water Management Plan.

(J) *Steep slopes.* No land disturbing or development activities shall be allowed on slopes of 18% or more.

(K) *Catch basins.* When deemed necessary by the Public Works Director, all newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse-grained material. The basins shall be cleaned when they are half filled with material.

(L) *Drain leaders.* When deemed necessary by the Public Works Director, all newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the previous areas.

(M) *Inspection and maintenance.* All storm water management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All storm water management facilities be inspected and maintained in accordance with the city's Comprehensive Storm Water Management Plan. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests allow access to the storm water management facilities for inspection maintenance purposes.

(N) *Models/methodologies/computations.* Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the Public Works Director. Plans, specification, and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the Public Works Director.

(O) *Watershed management plans/ground water management plans.* Plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with M.S. §§ 103B.231 and 103B.255, as they may be amended from time to time, respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with the state law.

(P) *Easements.* If a plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

(Q) *Lawn maintenance education.* The city shall participate in on-going educational opportunities to inform the residents of the harmful impacts to the environment by doing any of the following: improperly applying fertilizer; leaving or depositing grass clippings, leaves, and the like in any storm drainage area, street or natural drainage area; and, in addition, to discuss the benefits of using fertilizer containing less than 3% by weight of phosphorus.
(1993 Code, § 1675.08)

§ 153.09 OTHER CONTROLS.

In the event of any conflict between the provisions of this chapter and the provisions of any other ordinance of the city, the more restrictive standard prevails.
(1993 Code, § 1675.09)

CHAPTER 154: FLOOD ISSUES

Section

- 154.01 Purposes
- 154.02 Permit requirements
- 154.03 Permit application
- 154.04 Duties of the Public Works Director
- 154.05 Review of permit application
- 154.06 Review of subdivision proposals
- 154.07 Water supply system
- 154.08 Sanitary sewage and waste disposal systems
- 154.09 Definitions
- 154.10 Abrogation and greater restriction

§ 154.01 PURPOSES.

The legislature of the State of Minnesota has in M.S. Chapter 103F and M.S. Chapter 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. The purpose of this chapter is to minimize potential losses due to periodic flooding including loss of life, loss of 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, all of which adversely affect the public health, safety, and general welfare, and to establish eligibility in the National Flood Insurance Program and in order to do so the city must meet the requirements of 44 C.F.R. pt. 60.3(a). (1993 Code, § 1685.01)

§ 154.02 PERMIT REQUIREMENTS.

Permits are required as follows.

(A) No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person.

(B) No human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the designated responsible person for each change.

(C) No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the designated responsible person.

(1993 Code, § 1685.02) Penalty, see § 10.99

§ 154.03 PERMIT APPLICATION.

To obtain a permit required under this chapter, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the designated responsible person before the issuance of a permit will be considered.

(1993 Code, § 1685.03)

§ 154.04 DUTIES OF THE PUBLIC WORKS DIRECTOR.

In connection with any permit required under this chapter the following shall apply.

(A) The Public Works Director, hereinafter referred to as the responsible person, is appointed as the “person” responsible for receiving applications and examining the plans and specifications for the proposed construction or development.

(B) After reviewing the application, the responsible person may require any additional measures which are necessary to meet the minimum requirements of this chapter.

(C) The responsible person shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334. (1993 Code, § 1685.04)

§ 154.05 REVIEW OF PERMIT APPLICATION.

(A) The responsible person shall review all applications for a permit required under this chapter to determine whether proposed building sites will be reasonably safe from flooding.

(B) If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall 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.

(1993 Code, § 1685.05)

§ 154.06 REVIEW OF SUBDIVISION PROPOSALS.

(A) The responsible person shall review subdivision proposals and other proposed new development to determine whether the proposals will be reasonably safe from flooding.

(B) If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal shall be reviewed to assure that:

(1) All the proposals are consistent with the need to minimize flood damage within the flood prone area;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure of flood hazard.

(1993 Code, § 1685.06)

§ 154.07 WATER SUPPLY SYSTEM.

The responsible person shall require within flood prone areas, new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

(1993 Code, § 1685.07)

§ 154.08 SANITARY SEWAGE AND WASTE DISPOSAL SYSTEMS.

The responsible person shall require within flood prone areas:

(A) New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and

(B) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
(1993 Code, § 1685.08)

§ 154.09 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEVELOPMENT. Any human-made change to real estate, including, but not limited to, construction or reconstruction of buildings, installing manufactured homes or travel trailers, installing utilities, construction of roads or bridges, erection of levees, walls, or fences, drilling, mining, filling, dredging, and storage of materials.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN OR FLOOD PRONE AREA. Any land area susceptible to being inundated by water from any source (see **FLOOD**).

FLOODPROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

MANUFACTURED HOME. A structure, transportable in 1 or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities.

NEW CONSTRUCTION. For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after 12-31-1974, whichever is later, and includes any subsequent improvements to the structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the city and includes any subsequent improvements to the structures.

PERSON. Includes any individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

SPECIAL FLOOD HAZARD AREA. The land in the floodplain within the city subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term **SPECIAL FLOOD HAZARD AREA** is synonymous in meaning with the phrase “area of special flood hazard.”

STRUCTURE. For floodplain management purposes, a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes recreational vehicles and travel trailers on site for more than 180 days.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition, **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure regardless of the actual work performed. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a historic structure.

(1993 Code, § 1685.09)

§ 154.10 ABROGATION AND GREATER RESTRICTION.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restriction. However, where this chapter and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(1993 Code, § 1685.11)

CHAPTER 155: SIGNS

Section

General Provisions

- 155.01 Title
- 155.02 Findings, purpose, and effect
- 155.03 Definitions

Requirements and Regulations

- 155.20 Application of chapter
- 155.21 General requirements
- 155.22 Prohibited signs
- 155.23 Signs requiring no permits
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- 155.26 Shopping centers and the like; plan required
- 155.27 Ground signs
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- 155.29 Dynamic Display Signs
- 155.30 District schedules
- 155.31 Adjustments and appeals
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GENERAL PROVISIONS

§ 155.01 TITLE.

This chapter will be known as the Sign Ordinance.
(Ord. 08-002, passed 4-22-2008)

§ 155.02 FINDINGS, PURPOSE, AND EFFECT.

(A) *Findings.* The City Council hereby finds as follows:

- (1) Exterior signs have a substantial impact on the character and quality of the environment.
- (2) Signs provide an important medium through which individuals may convey a variety of messages.
- (3) Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.
- (4) The city's code of ordinances have, since as early as 1983, established standards which would permit businesses in the city a reasonable and equitable opportunity to identify themselves. The regulation of signs is an effort to provide adequate means of expression and to promote the economic viability of the business community.
- (5) To preserve and promote civic beauty and protect the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community.
- (6) To preserve and protect the value of land and buildings, and to preserve and protect landscapes.

(B) *Purpose and intent.* It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this chapter to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this chapter is to:

- (1) Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.
- (2) Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
- (3) Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.
- (4) Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the city.

(C) *Effect.* A sign may be erected, mounted, displayed or maintained in the city if it is in conformance with the provisions of these regulations. The effect of this sign ordinance, as more specifically set forth herein, is to:

(1) Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zoning districts, subject to the standards set forth in this sign ordinance.

(2) Allow certain small, unobtrusive signs incidental to the principal use of a site in all zoning districts when in compliance with the requirements of this sign ordinance.

(3) Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.

(4) Provide for the enforcement of the provisions of this sign ordinance.
(Ord. 08-002, passed 4-22-2008)

§ 155.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED SIGN. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of 1 year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of 1 year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established non-conforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of **ABANDONED SIGN**.

ANIMATED SIGN. A sign that features moving parts, motion, action, or electronically controlled changeable message, either illuminated or not illuminated. (Am. Ord. 2014-07, passed 12-9-2014)

AWNING SIGN. A building sign or graphic printed on or in some fashion attached directly to the awning material.

AWNING. A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an **AWNING**.

BALLOON SIGN. A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than 24 inches in diameter.

BILLBOARD. A sign which directs attention to a business, community service or entertainment not exclusively related to the premises where such sign is located (See definition of **ON PREMISES MESSAGES**).

BUILDING SIGN. Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUSINESS FRONTAGE. The linear frontage of that portion of a building facing the right-of-way and occupied by one separate business.

CABINET SIGN. Any box style or enclosed wall sign that is not of channel or individually mounted letter construction.

CANOPY SIGN. Any sign that is part of or attached to a canopy and is based on business frontage.

CANOPY. A permanent roof structure attached to and supported by the building.

CHANGEABLE COPY SIGN. A sign, or a portion thereof, with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. **CHANGEABLE COPY SIGNS** do not include non-electric copy, or signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

COMMERCIAL SPEECH. Speech advertising a business, profession, commodity, service or entertainment.

DIRECTIONAL SIGN. An on-premises sign designed to guide or direct pedestrian or vehicular traffic and a surface area not greater than 5 square feet.

DYNAMIC DISPLAY SIGNS. A sign that appears to have movement or that appears to change, caused by any method other than physically removing and replacing the sign or its components. This includes any display that incorporates a method or technology that allows the image on the sign face to change without physically or mechanically replacing the sign face or its components. This also includes signs containing parts that rotate, revolve, move, flash, blink, utilize Light Emitting Diodes (LED) or Liquid Crystal Display (LCD) lights, digital ink, or any other technology that allows the sign to display a series of images or displays. (Am. Ord. 2014-07, passed 12-9-2014)

ELECTRIC SIGN. Any sign containing electric wiring but not including signs illuminated by an exterior light source.

ELECTRONIC MESSAGE SIGN. Any sign that displays a message electronically through the use of pixel-based technology, such as but not limited to light emitting diodes (LED's), liquid crystal, etc.

ELEVATION AREA. The area of all walls that face any lot line.

ELEVATION. The view of the side, front, or rear of a given structure(s).

FLAG. Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

FLASHING SIGN. A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.

FREESTANDING SIGN. Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

FRONTAGE. The line of contact of a property with the public right-of-way.

GRADE. Grade shall be construed to be the final ground elevation after construction. Earth mounding or berming criteria for landscaping and screening are not part of the final grade for sign height computation.

GROUND SIGN. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign, that has no visibility between the bottom of the sign and the base on which it is attached, and which has a total height not exceeding 8 feet, with landscaping to enhance the appearance of the signage.

HEIGHT OF SIGN. The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

IDENTIFICATION SIGN. A sign which is a non-commercial sign but is limited to the name, address, and number of a building, institution or person and to the activity carried on in the building or institution or the occupation of the person.

ILLUMINATED SIGN. A sign designed to give forth any artificial or reflected light, either directly from a source connected with the sign or indirectly from an artificial source, so shielded that no direct illumination from it is visible except on the sign and in its immediate proximity.

INTERIOR SIGN. A sign which is located within the interior of any building, or within an enclosed lobby or court of any building.

ISSUING AUTHORITY. The City Manager or designee.

LEGALLY ESTABLISHED NON-CONFORMING SIGN. Any sign and its support structure lawfully erected prior to the effective date of this chapter which fails to conform to the requirements of this chapter. A sign which was erected in accordance with a variance granted prior to the adoption of this chapter and which does not comply with this chapter shall be deemed to be a legal non-conforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

MAJOR ANCHOR. A single tenant in a shopping center that is at least 20% of the total square footage and in excess of 50,000 square feet.

MARQUEE SIGN. Any building sign painted, mounted, constructed or attached in any manner, on a marquee or made part of a marquee.

MARQUEE. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

MONUMENT SIGN. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding 8 feet.

MOTION SIGN. Any sign which revolves or rotates, has moving parts, has changing messages, or displays a shimmering effect. Included in this category are searchlights used for advertisement.

(Am. Ord. 2014-07, passed 12-9-2014)

MULTIPLE TENANT SITE. Any site which has more than 1 tenant, and each tenant has a separate ground level exterior public entrance.

NON-COMMERCIAL SPEECH. Dissemination of messages not classified as **COMMERCIAL SPEECH** which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

OFF-PREMISE SIGN. A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

ON-PREMISE MESSAGES. Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

PARAPET (WALL). That portion of building wall that rises above the roof level.

PEDESTAL. A foundation or base of a ground or monument sign which either directly supports the signage or completely screens the supporting members of the sign.

PERSON. An individual, firm, association, organization, partnership, trust, or corporation.

PORTABLE SIGN. Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

PRINCIPAL BUILDING. The building in which the principal primary use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

PROFESSIONAL BUILDING. Any multi-story building of 50,000 square feet or more occupied by professional, service-oriented businesses, such as legal clinical or health care-related retail or service establishments with parking provided on the tract of land for use in common by patrons and occupants.

PROJECTING SIGN. Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than 15 inches beyond the surface or such building or wall face.

PROPERTY OWNER. Legal owner of property as officially recorded by Hennepin or Ramsey County.

PUBLIC NOTICES. Official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

PUBLIC STREET RIGHT-OF-WAY. The planned right-of-way for a public street.

PYLON SIGN. Any freestanding sign which has its supportive structure(s) anchored in the ground, independent of any structure or object, and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

READERBOARD SIGN. Any sign having a message not permanently affixed to the sign face, and the copy is manually changed. (Am. Ord. 2014-07, passed 12-9-2014)

RESIDENTIAL DISTRICT. Any district zoned for residential uses.

ROOF LINE. The upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade or parapet.

ROOF SIGN. A sign erected upon the roof or parapet of a building, the entire face of which is situated above the roof level of the building to which it is attached, and which is wholly or partially supported by the building.

ROOF. The exterior surface and its supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering sections of the Minnesota State Building Code.

ROTATING SIGN. A sign or portion of a sign which turns about on an axis.

SETBACK, FRONT. The minimum horizontal distance permitted between the public right-of-way and a structure on the premises. In instances in which a property fronts on more than 1 street, front setbacks are required on all street frontages.

SETBACK, REAR. The minimum horizontal distance permitted between the property line opposite the principal street frontage and a structure on the premises.

SETBACK, SIDE. The minimum horizontal distance permitted between the side lot line and a structure on the premises.

SHIMMERING SIGNS. A sign which reflects an oscillating and/or sometimes distorted visual image.

SHOPPING CENTER. Any **SHOPPING CENTER** as defined in § 152.124.

SIGN STRUCTURE. Any structure including the pedestal, base, supports, uprights, bracing and framework which supports or is capable of supporting any sign.

SIGN SURFACE AREA. The area in square feet of the sign including both sides upon, against, or through which the message of the sign is exhibited.

SIGN. Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

SITE. A plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated, and/or approved to function as an integrated unit.

STREET. A public highway, road, alley or thoroughfare.

STRINGER. A line of string, rope, cording, or an equivalent to which is attached a number of pennants.

STRIP MALL. Any group of four or more occupant retail or service establishments on one or more contiguous tracts of land in single ownership, comprising 7,500 to 75,000 square feet of floor area with parking provided on the tract or tracts of land for use in common by patrons.

SUSPENDED SIGN. Any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

TEMPORARY SIGN. Any sign, banner, pennant, valance or advertising display constructed with light materials with or without frames intended to be displayed for a limited time only.

TOTAL SITE SIGNAGE. The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

VISIBLE. Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

WALL SIGN. A flat sign which does not extend more than 18 inches from the face or wall of the building upon which it is affixed, painted or attached, running parallel for its whole length to the face or wall of the building, and which does not extend beyond the horizontal width of such building.

WALL. Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of 60 degrees or greater with the horizontal plane.

WINDOW SIGN. Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.
(Ord. 08-002, passed 4-22-2008)

REQUIREMENTS AND REGULATIONS

§ 155.20 APPLICATION OF CHAPTER.

(A) *Conformity.* No sign may be erected, placed, altered or moved unless in conformity with this chapter.

(B) *Other code provisions.* Nothing in this chapter may be taken to relieve any person from complying with the provisions of any other chapter of this code of ordinances.
(Ord. 08-002, passed 4-22-2008)

§ 155.21 GENERAL REQUIREMENTS.

(A) *Sign permit not required.* The changing of the advertising message of a painted or printed sign, theater marquee or a changeable copy sign, and the painting, repainting and cleaning of signs will not require a sign permit, but will otherwise be done in compliance with this chapter and any other applicable law or section of this code.

(B) *Hazard and hazardous signs.*

(1) No sign may by reason of its location, color, or intensity, create a hazard to the safe and efficient movement of vehicles or pedestrian traffic.

(2) No sign may contain words which might be construed as traffic controls, such as "Stop", "Caution", "Warning", or otherwise resemble any official marker erected by a governmental body or agency, unless such sign is a directional sign.

(3) Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal shall be deemed hazardous.

(C) *Framework of signs.*

(1) When possible, the framework for the lateral support of a sign must be contained within the sign's body or within the structure of the building to which it is attached so as not to be visible.

(2) The area within the framework of a sign shall be used to calculate the square footage except that the width of a frame exceeding 12 inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall, fascia or awning or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending 6 inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof.

(3) Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings or free-standing structures are considered a sign and are included in calculating the overall square footage.

(D) *Placement of signs.* No sign, or attachment to it, may be erected, placed or maintained by any person on rocks, fences, or trees, nor in such a manner as to interfere with any electric lights, power, telephone or telegraph wires, or the supports thereof.

(E) *Maintenance.* All signs, together with all of their supports, braces, guys and anchors, must be kept neatly painted and posted. Every sign must be maintained by the owner or person in charge of the sign in a clean, safe, sanitary, and inoffensive condition and free of litter, rubbish, and weeds.

(F) *Inspections.* All signs for which a permit is required may be inspected by the City Manager, and a permanent record, including photographs, may be maintained. The City Manager or the City Manager's designated representative may, after notice to the owner, enter upon any property to ascertain whether the provisions of this chapter are being complied with. The City Manager may order the removal of any sign that is not maintained in accordance with this chapter. In addition, the following inspections will be made:

(1) All signs requiring footings must be inspected to insure that suitable footings as determined by the City Building Inspector in accordance with appropriate building codes have been used. Footing inspections will be required for all ground signs and pylon signs before these signs are installed.

(2) Electrical signs must be installed in accordance with the current electrical code and a separate permit from the building official must be obtained prior to installation. Inspections will be required for any electric sign.

(G) *Illumination.* External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property. All external illumination for signs shall have a shielded light source.

Any sign illuminated and located within 200 feet of a lot line of a residence shall be diffused or indirect so as not to reflect rays of light into adjacent residences or a street and shall not be illuminated between

10:00pm and 6:00am; provided, however, such signs may be illuminated at any time when the use identified by the sign is open for business, unless otherwise determined by the City Council through the Conditional Use Permit process.

(Ord. 08-002, passed 4-22-2008) Penalty, see § 10.99 (Am. Ord. 2014-07, passed 12-9-2014)

§ 155.22 PROHIBITED SIGNS.

(A) In addition to the signs listed below, signs that are not specifically permitted in this chapter are hereby prohibited.

(B) Without restricting or limiting the generality of the provisions of the foregoing, the following signs are specifically unauthorized and therefore prohibited:

(1) *Balcony signs.* Balcony signs and signs mounted or supported on a balcony;

(2) *Obstructing signs.* Any sign that obstructs any part of a doorway or fire escape;

(3) *Exterior signs.* Signs, including those intended for viewing only from the interior of a building but which can reasonably be viewed from exterior of the building, which by reason of position, shape, color, or any other characteristic would interfere with the proper function of a traffic sign or signal, or otherwise constitute a traffic or safety hazard;

(4) *Signs within the public right-of-way or public easement;*

(5) *Whirling devices;*

(6) *Signs on glass doors.* Signs on glass doors which have a total sign surface area exceeding 20% of the glass area of the door;

(7) *Signs near lots.* Signs other than wall signs which have any surface area or structural member closer than 10 feet to a side lot line;

(8) *Signs near property lines.* Signs which project beyond the property line of the property upon which the sign is located;

(9) *Signs near roofs.* Signs projecting more than 5 feet above the roof line of the structure to which it is affixed;

(10) *Advertising signs.* Signs intended to be for the purpose of advertising in R-1, R-1A, R-2, R-3 and R4 districts, including those intended for viewing only from the interior of a building but which can reasonably be viewed from the exterior of the building;

(11) *Signs on walls.* Wall signs having a sign surface area exceeding 15% of the area of the wall surface to which it is affixed;

(12) *Projecting signs.* Signs constructed so that the message or communication is not flat against the sign structure;

(13) *Signs affixed to utility poles and fences.* Signs painted, attached or in any other manner affixed to trees, rocks, or similar natural surfaces, or attached to utility poles, bridges, towers, fences or similar public structures;

(14) *Emitting signs.* Signs which emit sound, odor or visible matter;

(15) *Animated signs;*

(16) *Flashing signs;*
(Am. Ord. 2014-07, passed 12-9-2014)

(17) *Signs attached to a vehicle.* Vehicles with incorporated or attached signage parked primarily for use as a sign shall not be parked in any zone for more than 72 hours;

(18) *Billboards;*

(19) *Signs on bus shelters.* All types of signs except for bus schedules and identification information;

(20) *Off-premise signs;*

(21) *Portable signs;*

(22) Video Display Signs; and

(23) Fluorescent tubes, neon, and fiber optic light sources.
(Ord. 08-002, passed 4-22-2008) Penalty, see § 10.99 (Am. Ord. 2014-07, passed 12-9-2014)

§ 155.23 SIGNS REQUIRING NO PERMITS.

The following signs shall not require a permit, if they meet all other requirements of this chapter. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this chapter or any other law or ordinance regulating the same.

(A) *Changing display surface.* The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building.

(B) *Signs 6 square feet or less in size.*

(C) *Window signs.* Temporary or permanent window signs duly authorized by zoning and other laws of this city, provided that all such signs on a frontage shall not have a total sign surface area greater than 50% of the glass area, excluding doors, on such frontage and provided that a minimum of one-half

of the open window space must be below a horizontal line which is 5 feet above the interior floor of the commercial establishment. Merchandise displays in windows shall not be considered a part of the sign area if such display is not intended to be continued for a period of more than 8 weeks.

(D) *Signs affixed on benches at public bus stops.*

(E) *Replacement of existing commercial identification signs.* A commercial identification sign designed to replace an existing commercial identification sign which lawfully exists under this code, so long as the new sign has the same dimensions and is in the same location as the existing sign, and is not prohibited sign under § 155.22.

(F) *Non-commercial signs exemption.* All non-commercial signs of any size may be posted in any number from 46 days before the state primary in a state general election year until 10 days following the state general election. For local elections, which are usually held on the first Tuesday after the first Monday in November of odd-numbered years, all non-commercial signs of any size may be posted for 4 weeks prior to a local election until 5 days following the local election. These exempted non-commercial signs are not allowed to be placed within 10 feet from the curb and 10 feet from the property lines. If these signs are placed in violation of these setbacks, they will be removed by the City Code Inspector. (Ord. 08-002, passed 4-22-2008; Am. Ord. 10-001, passed 4-13-2010)

§ 155.24 SIGNS REQUIRING PERMITS.

Permits required. No sign shall be erected, constructed, altered, reconstructed, maintained or moved in the city without first securing a permit from the city, other than those described in § 155.23. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

(Ord. 08-002, passed 4-22-2008) Penalty, see § 10.99

§ 155.25 PERMITS; APPLICATION; FEES.

(A) *Permit fees.* A sign permit fee must be paid in accordance with § 33.061.

(B) *Application for a permit.* Application for a permit shall be in writing on forms provided by the city and must be accompanied by a sign permit fee. The application shall contain the following information:

- (1) Names and addresses of the owners of the display structure and property;
- (2) The address at which any signs are to be erected or modified;

(3) The lot, block and addition at which the signs are to be erected and the street on which they are to front;

(4) A complete set of plans showing the necessary elevations, distances, dimensions to fully and clearly represent the construction and the placement of the signs, including dimensions of the wall surface of the building to which it is to be attached and linear footage of the right-of-way frontage of the building;

(5) The cost of the sign;

(6) Type of sign (i.e. wall sign, monument sign) and if the sign is to be illuminated, the technical means by which this is to be accomplished;

(7) Certification by applicant indicating the application complies with all requirements of the sign ordinance;

(8) If the proposed sign is along a county road or state trunk highway, the application shall be accompanied by proof that the applicant has obtained a permit from the county or state for the sign;

(9) Where a shopping center comprehensive sign plan is proposed, the plan must include the location, size, height, color lighting and orientation of all signs; and

(10) When a ground sign plan is submitted, the plan must include the location of the sign in relation to the lot lines and the building height, including any difference from the established grade, grade level, dimensions of the berm, size, color, lighting and hours of illumination.

(C) Permit Issuance.

(1) Each application must be reviewed for compliance by the City Manager or designee.

(2) If the proposed sign complies with this chapter, a permit will be issued within 30 days after the application date.

(3) A sign permit will become null and void if the work for which the permit was issued has not been completed within 1 year of issuance, or renewed. Application for renewal will consist of the same procedures as the initial application for permit, including payment of any fee.

(Ord. 08-002, passed 4-22-2008) Penalty, see § 10.99

§ 155.26 SHOPPING CENTERS AND THE LIKE; PLAN REQUIRED.

Shopping centers/strip mall/ professional building comprehensive sign plan.

(A) A comprehensive sign plan must be provided for the whole of a shopping center, strip mall, or professional building development.

(B) This plan includes the location, size, height, color, lighting and orientation of all signs, and must be submitted for preliminary plan approval.

(C) When a comprehensive sign plan is submitted, exceptions to the regulations of this chapter may be permitted if the sign areas and densities for the plan as a whole are in conformity with the intent of this chapter and if such exception results in an improved relationship between the various parts of the sign plan as determined by the City Council.

(D) Comprehensive sign plans will be reviewed by the City Planning Commission which will forward a recommendation to the City Council on the appropriateness of the proposed sign plan. (Ord. 08-002, passed 4-22-2008) Penalty, see § 10.99

§ 155.27 GROUND SIGNS.

(A) Ground signs are permitted in all districts but only to the extent permitted in this section and in the District Schedules set forth in § 155.29.

(B) *Permit application.* A permit shall be applied for in accordance with § 155.25.

(C) *Height.* A sign must not exceed 8 feet in height, including pedestal and any berming.

(D) *Surface Area:*

(1) Signs having 1 copy surface may have up to 34 square feet of surface area.

(2) Signs having 2 or more copy surfaces may have up to 68 square feet for all surfaces.

(3) Buildings with 2 or more businesses/tenants shall be allowed an additional 12 square feet for 2 or more copy surfaces, for a total of 80 square feet.

(E) *Landscaping.* Ground signs must be landscaped. Landscaping may consist of shrubs, plants, rocks, or other decorative materials located around the pedestal. All signs shall be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind and underneath the base of ground signs for a distance of at least 10 feet shall be neatly and free of weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

(Am. Ord. 2014-07, passed 12-9-2014)

(F) *Design and location:*

(1) Signs must maximize the use of natural materials in construction and should conform to the material design of the principal structure.

(2) Signs must be located at least 15 feet from the curb line of any public street and cannot be placed within any street right-of-way or government easement.

(3) The pedestal width of a ground sign must be at least equal to the sign width.

(4) The principal structure of a parcel of land will be allowed one ground sign, regardless of the number of tenants in the structure.

(Ord. 08-002, passed 4-22-2008) Penalty, see § 10.99

§ 155.28 WALL SIGNS.

The sign surface area of a wall sign may not exceed 15% percent of the area of the wall to which it is applied.

(Ord. 08-002, passed 4-22-2008) Penalty, see § 10.99

§155.29 DYNAMIC DISPLAYS.

(A) *Findings.* Studies show that there is a correlation between Dynamic Displays on signs and the distraction of roadway drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Time and temperature signs appear to be an exception to these concerns because the messages are short, easily absorbed, and become inaccurate without frequent changes.

Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by state or federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation in residential districts where signs can adversely impact residential character.

Spacing requirements enforced by the City Code could interfere with the equal opportunity to use such technologies and are not included. Without those requirements, however, there is the potential for multiple Dynamic Displays to exist along a corridor. If more than one Dynamic Display can be seen from a given location on a corridor, the minimum display time becomes critical. If the display time is too short, a driver could be subjected to a view that appears to have constant movement. This impact would be compounded in a corridor with multiple signs. If Dynamic Displays become pervasive and there are no meaningful limitations on each sign's ability to change frequently, drivers may be subjected to an unsafe degree of distraction and sensory overload. Therefore, a longer display time is appropriate.

Additionally, a constant message is typically needed on a sign so that the public can use it to identify and find an intended destination. Changing messages detract from this way-finding purpose and could adversely affect driving conduct through last-second lane changes, stops, or turns, which could result in traffic accidents. Accordingly, Dynamic Displays generally should not be allowed to occupy the entire copy and graphic area of a sign.

The City finds that Dynamic Displays should be allowed on signs but with significant controls to minimize their proliferation and their potential threats to public safety.

(B) *Permitted Signs.* Dynamic displays are not outright permitted within any zoning district within the City.

(C) *Conditionally Permitted Signs.* Dynamic Displays are conditionally permitted solely as free-standing ground signs with the issuance of a Conditional Use Permit from the City Council only in the R1- Single Family Residential District to display non-commercial or public service announcements when displayed on the site of an approved public or quasi-public land use, the C-Commercial, I – Industrial, and ROS – Recreation/Open Space Districts. Dynamic Display Signs shall comply with the height, size, arrangement, set back, location, and other applicable provisions of this Chapter and the district in which the sign is located. The conditions with respect to the issuance of any Conditional Use Permit for a Dynamic Display Sign shall cover at least the following:

- (1) Aesthetics of the sign, including, but not limited to message color, construction materials, and landscaping;
- (2) Location of the sign with regard to the surrounding area; and
- (3) Position/layout of the sign with regard to the surrounding area.

(D) *Size of Display.* Dynamic Displays may occupy no more than 35% of the actual copy and graphic area allowed by the zoning district for which it is located in. The remainder of the sign must not have the capability to have Dynamic Displays even if not used. Only one, contiguous Dynamic Display area is allowed on a sign face. Additionally, the remainder of the sign must not have the capability to have a readerboard sign as defined herein.

(E) *Size of Copy.* Every line of copy and graphics in a Dynamic Display must be at least seven inches in height on a road with a speed limit of 25 to 34 miles per hour, nine inches on a road with a speed limit of 35 to 44 hour, 12 inches on a road with a speed limit of 45 to 54 miles per hour, and 15 inches on a road with a speed limit of 55 miles per hour or more. If there is insufficient room for copy and graphics of this size in the area allowed under clause (D) above, then no Dynamic Display is allowed.

(F) *Duration of Image.* The images and messages displayed on a Dynamic Display Sign must be static. A Dynamic Display's image, or any portion thereof, may not change more often than once every 8 seconds in ROS and R1 Districts, except one for which changes are necessary to correct hour-and-minute, date, or temperature information. Due to the increased quantity and distance between signs, a Dynamic Display's image, or any portion thereof, may not change more often than once every 5 minutes in C and LI Districts, except one for which changes are necessary to correct hour-and-minute, date, or temperature information.

(G) *Transition.* If a Dynamic Display's image or any portion thereof changes, the change sequence must be instantaneous without any special effects.

(H) *Message.* The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.

(I) *Color.* The matrix elements of the display shall be monochromatic in color with a solid black background.

(J) *Sign Construction and Maintenance.* All permanent freestanding ground signs shall have self-supporting structures erected on and permanently attached to concrete foundations. The base of Dynamic Display signs must maximize the use of natural materials, such as stone, brick, rock or similar decorative material, in construction and should conform to the material design of the principal structure.

All signs shall be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind, and underneath the base of ground signs for a distance of at least 10 feet shall be neatly trimmed and free of weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

(K) *Prohibition on Video Display.* No portion of a Dynamic Display may change any part of its sign face by a method of display characterized by motion or pictorial imagery, or depict action or a special effect to imitate movement, or display pictorials or graphics in a progression of frames that gives the illusion of motion of any kind.

(L) *Prohibition on Fluctuating or Flashing Illumination.* No portion of a Dynamic Display image may fluctuate in light intensity or use intermittent, strobe or moving light, or light that changes in intensity in sudden transitory bursts, streams, zooms, twinkles, sparkles or in any other manner that creates the illusion of movements.

(M) *Audio.* Dynamic Displays shall not be equipped with audio speakers.

(N) *Malfunctions.* Dynamic Displays must be designed and equipped to freeze the sign face in one position if a malfunction occurs. Dynamic Displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner or operator must immediately turn off the display when notified by the City that it is not complying with the standards of this Ordinance.

(O) *Brightness.* All Dynamic Displays shall meet the following brightness standards:

(1) No Dynamic Display may exceed a maximum illumination of 4,500 nits (candelas per square meter) during daylight hours and a maximum illumination of 450 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness.

(2) All Dynamic Displays having illumination by means other than natural light must be equipped with a dimmer control or other mechanism that automatically controls the signs brightness to comply with the requirements of this Section.

(3) No Dynamic Display may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.

(4) The owner or controller of the Dynamic Display must adjust the sign to meet these brightness standards in accordance with the City's instructions. The adjustment must be made immediately upon notice of non-compliance from the City.

(5) A written certification from the sign manufacturer that light intensity has been preset to conform to the brightness levels established by the City's code and that the preset level is protected from end user manipulation by password protected software or other method. This would offer the advantage of ensuring that electronic signs at a minimum cannot exceed the standards. The sign manufacturer must submit this certification at the time of Sign Permit issuance that the sign has the mechanical capabilities to control luminance at the levels noted in (1) above.

(P) *Non-Conforming Signs.* Dynamic Display Signs existing on January 1, 2015 must comply with the operational standards listed herein. An existing Dynamic Display Sign that does not meet the structural requirements as outlined in (B) and (C) above may continue as a non-conforming development. An existing Dynamic Display Sign that cannot meet the minimum size requirements in clause (E) must use the largest size possible for one line of copy to fit in the available space.

(Q) *Prohibited Signs.* Dynamic Display signs shall not be used to display a listing of tenant names, nor can they create distractions which are detrimental to the public health, welfare and safety as determined by the City Manager.

(Am. Ord. 2014-07, passed 12-9-2014)

§ 155.30 DISTRICT SCHEDULES.

Signs shall be permitted as set forth in the following provisions:

(A) *Residential.* The following signs are permitted in a residential district:

(1) *R-1, R-1A, and R-2.*

(a) One identification sign per dwelling unit per right-of-way frontage stating the street address, and/or the name of the resident. One address sign may also be located on the curb in front of each dwelling unit or on a freestanding mailbox.

(b) Only 1 non-commercial sign with a maximum sign area of 6 square feet per surface with a total area of 12 square feet all sign area surfaces will be permitted per lot. Signs may not have any surface area or structural member closer than 10 feet to a side lot line or sited in a public right-of-way or public easement.

(c) The following types of signs are not permitted in residential zoning districts:

1. Awning signs;
2. Balloon signs;
3. Canopy signs;
4. Flashing signs;
5. Marquee signs;
6. Pole signs;
7. Pylon signs; and
8. Shimmering signs.

(2) *R-3 and R-4.* Each multiple dwelling complex (9 or more units) allowed one freestanding sign identifying the complex. The sign may not exceed 50 square feet in sign surface area. The sign structure, including the sign surface area, may not exceed 150 square feet in area. The highest point of the sign may not be more than 8 feet above ground level.

(3) Each religious institution/place of worship located within the corporate limits of this city, subject to approval of size, location and type by the City Manager, may construct and maintain a maximum of 3 directional signs on municipal rights-of-way. Not more than 1 such sign may be installed or maintained at any intersection.

(4) Each of the following may install and maintain 1 ground sign subject to the provisions of § 155.01 on the property to which the sign pertains, with the exception of a Dynamic Display Sign, which requires the issuance of a Conditional Use Permit (CUP) as outlined in § 155.29 herein:

(a) Schools and publicly owned facilities listed in § 152.036(B) and (C); and § 152.051(B) and (C).

(b) Religious institution/place of worship, and city buildings listed in § 152.037(A) and (C); and § 152.052(B).

(B) *Commercial.* The following signs are allowed in a "C" Commercial Districts and may be installed after obtaining a permit and paying a required license fee.

(1) One identification sign per right-of-way frontage per commercial establishment. The sign may have no more than 2 square feet of surface area per lineal foot of business frontage, up to a maximum of 150 square feet. The total area of all wall signs affixed to a wall may not exceed 15% of the total area of that wall. Dynamic Display Signs are conditionally permitted with the issuance of a Conditional Use Permit, subject to the provisions of § 155.29. If a Dynamic Display Sign is installed, only one identification sign is permitted for that property regardless of right-of-way frontage.

(Am. Ord. 2014-07, passed 12-9-2014)

(2) Upon submittal of a comprehensive sign plan, and subject to approval of the City Council, a shopping center over 75,000 square feet may have major anchor/tenant ground sign(s) depending upon the number of major anchors. The total sign area shall not exceed 300 square feet.

(3) Upon submittal of a comprehensive sign plan, and subject to approval of the City Council, a shopping center over 75,000 square feet may be allowed additional wall signs for commercial establishments that need additional exposure from different vantage points. The number of additional wall signs will not exceed 1/2 the total number of commercial establishments and will be allowed a surface sign area of 1/2 of that which is allowed.

(4) A commercial establishment located within a shopping center, having no outside frontage, will be allowed a surface sign area of 1/2 of that which it would be allowed if it had outside frontage.

(5) Commercial establishments will be allowed, in addition to all other authorized signs, 1 historical identification symbol, not exceeding 5 square feet in sign surface area.

(6) Subject to approval of the City Council, and as a conditional use, a movie theater may have a marquee. The total sign area for a marquee sign shall not exceed 200 square feet.

(7) Subject to approval of the City Council, and submittal of a comprehensive sign plan, a strip mall under 75,000 square feet and a shopping center over 75,000 square feet, may be allowed a ground sign with a surface sign area not to exceed 150 square feet.

(8) Upon submittal of a comprehensive sign plan, and subject to approval of the City Council, a major anchor/tenant over 50,000 square feet in a shopping center over 75,000 square feet may have a wall sign that is up to 4 times the sign surface area of which is allowed for other commercial establishments.

(9) Subject to approval of the City Manager, a searchlight is permitted for a special event.

(C) *Light industrial.* The following signs are permitted in a Light Industrial District and may be installed after obtaining a permit and paying required license fee.

(1) One business or identification canopy or wall sign per right-of-way frontage as regulated in subdivision (B)(1) of this section and 1 freestanding sign as regulated and permitted in § 155.27. Dynamic Display Signs are conditionally permitted with the issuance of a Conditional Use Permit, subject to the provisions of § 155.29.

(2) In a district zoned for light industrial businesses, signs containing 1 square foot for every 100 square feet of ground floor space will be allowed up to a total sign surface area of 150 square feet.

(D) *Recreational open space.* The following signs are permitted in a Recreational Open Space District and may be constructed after obtaining a permit and paying the required license fee.

(1) Subject to approval of the City Council, only ground and wall signs are allowed in this district. The ground sign may have a sign surface area not to exceed 150 square feet.

(2) Subject to the approval of the City Council, and as a conditional use, Dynamic Display Signs are conditionally permitted with the issuance of a Conditional Use Permit, subject to the provisions of §155.29.

§ 155.31 ADJUSTMENTS AND APPEALS.

(A) *Composition.* The commission of adjustments and appeals will be comprised of all of the members of the Planning Commission.

(B) *Powers and duties.* The commission will hear and make recommendations to the Council regarding:

(1) Appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this chapter; and

(2) Petitions for variances from the literal provisions of ordinances in instances where their strict enforcement would cause hardship because of circumstances unique to the individual property under consideration. The commission may recommend the granting of such variances only when it appears upon evidence presented that:

(a) The granting of the variance will not be detrimental to the other property in the neighborhood or city; and

(b) A particular hardship to the applicant would result if the strict letter of the regulations are adhered to; or

(c) The conditions upon which the application for a variance is based are unique to the sign or to the parcel of land for which the variance is sought and are not applicable, generally, to other property within the same land use classification.

(Ord. 08-002, passed 4-22-2008)

§ 155.32 VARIANCES.

(A) *Variances granted.* Variances may be granted by the City Council after a public hearing is held by the Planning Commission and a recommendation is made to the City Council. Notices will be given, and a public hearing will be held, in the manner provided in §§ 30.45 through 30.48. The installation of sign(s) must take place within 1 year after a variance has been granted by the City Council.

(B) *Majority vote.* A majority affirmative vote of the City Council members present is required to approve a variance.

(C) *Fee.* An application for a variance must be accompanied by the fee provided in § 33.061. (Ord. 08-002, passed 4-22-2008)

§ 155.33 NON-CONFORMING SIGNS.

(A) *Legal conforming.* All signs existing as of January 1, 2009 conforming to the requirements of this chapter and not requiring a permit under the provisions of this chapter, may be maintained so long as they continue to comply with the provisions of this chapter, as it may from time to time be amended.

(B) *Legal non-conforming signs.* All signs existing as of January 1, 2009, which would be prohibited by this chapter, or which would require a permit under this chapter but have not received a permit, will be deemed to be legal non-conforming signs. Legal nonconforming signs may continue to exist without a permit and without constituting a violation of this chapter until 1 or more of the following occurs:

(1) The sign is structurally altered (except for normal maintenance) in a way which makes the sign less in compliance with this chapter than it was before the alteration;

(2) The sign is relocated to a position making it less in compliance with this chapter than it was before the relocation;

(3) The sign is replaced; or

(4) Any new primary sign is constructed or placed in connection with the enterprise using the legal non-conforming sign.

(Ord. 08-002, passed 4-22-2008)

§ 155.34 ENFORCEMENT.

(A) If a sign is in violation of this chapter, or is in danger of falling, or is otherwise a menace to the safety of persons or property, the City Manager may give to the owner of the property on which the sign is located, written notice specifying the violation, ordering the cessation to the violation and requiring either the removal of the sign or remedial work in the time and manner specified in the notice.

(B) In the event of failure to comply with the notice within 30 days, the City Manager may remove the sign or cause such remedial work to be done.

(C) The cost of the work performed by the city must be paid to the city by the owner of the property on which the sign is located. If payment is not made within 30 days after a statement for such costs is sent to the owner, the costs may be assessed against the property by certifying the costs to the County Treasurer for collection in the same manner as real estate taxes.

(D) If a sign which has been removed is not reclaimed and costs paid within 30 days after its removal, the sign may be sold or otherwise disposed of by the city.

(E) If a sign is found to be an immediate danger to the public because of its unsafe condition, it may be removed without notice, and written notice of removal and reasons for the removal will be given to the property owner of the property on which the sign is located as soon as possible.

(Ord. 08-002, passed 4-22-2008)

Ordinance Update Log

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| 2014-07 | 12-9-2014 | 155; Signs |