

**CITY OF NORTH SAINT PAUL, MINNESOTA
CODE OF ORDINANCES**

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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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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 "city code," for which designation "code of ordinances," "codified ordinances" or "code" may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

(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." 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.

§ 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of 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) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(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 shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(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 City of North Saint Paul, Minnesota. 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. Ramsey County, Minnesota.

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.

§ 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 one 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 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

§ 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 publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

(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 City Manager for public inspection. The City Manager shall provide a copy for sale for a reasonable charge.

§ 10.19 ADOPTION OF STATUTES AND RULES BY REFERENCE.

It is the intention of the City Council that, when adopting this Minnesota Basic Code, all future amendments to any state or federal rules and statutes 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 ADMINISTRATIVE OFFENSE.

(A) *Purpose.* Administrative offense procedures established pursuant to this section are intended to provide the public and the city with an informal, cost- effective and expeditious alternative to traditional criminal charges for violations of certain Code provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for in division (I), the individual may withdraw from participation in the procedures, in which event, the city may bring criminal charges. In addition, the city, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the city may seek to collect the costs of the administrative offense procedures as part of any subsequent criminal sentence, in the event the party is charged and is adjudicated guilty of the criminal violation.

(B) *Administrative offense defined.* An administrative offense is a violation of a provision of this Code and is subject to the administrative penalties set forth in a schedule of offenses and penalties referred to in division (I), hereafter.

(C) *Notice.* Any officer of the City Police Department, or any other person employed by the city, authorized in writing by the City Manager, and having authority to enforce this code, shall, upon determining that there has been a violation, notify the violator, or in the

case of a vehicular violation, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

(D) *Payment.* Once such notice is given, the alleged violator may, within seven days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

(E) *Hearing.* Any person contesting an administrative offense pursuant to this section may, within seven days of the time of issuance of the notice, request a hearing by a hearing officer, who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

(F) *Hearing Officer.* A city employee designated in writing by the City Manager shall be the hearing officer. The hearing officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this section.

(G) *Failure to pay.* In the event a party charged with an administrative offense fails to pay the penalty, criminal charges may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid, or if the individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the City for same violation.

(H) *Disposition of penalties.* All penalties collected pursuant to this section shall be paid to the City Finance Director and shall be deposited to the city's General Fund.

(I) *Offenses and penalties.* Offenses which may be charged as administrative offenses and the penalties for such offenses shall be established by ordinance of the City Council from time to time. Copies of such ordinances shall be maintained in the office of the City Manager.

(J) *Subsequent offenses.* In the event a party is charged with a subsequent administrative offense within a 12-month period of paying that administrative penalty for a same or similar offense, the subsequent administrative penalty shall be increased by 25% above the previous administrative penalty.

(Ord. 647, passed 8-19-2003)

§ 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. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(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. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.

(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.

TITLE III: GOVERNANCE

Chapter

30. CITY COUNCIL

31. CITY OFFICIALS

32. BOARDS AND COMMISSIONS

33. CITY POLICY ON ABANDONED PROPERTY

CHAPTER 30: CITY COUNCIL

Section

- 30.01 Time and place of meetings
- 30.02 Presiding officer
- 30.03 Quorum
- 30.04 Order of business
- 30.05 Powers of Mayor
- 30.06 Speaking
- 30.07 Motions and resolutions
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- 30.11 Petitions to be read
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- 30.13 Suspension of rules
- 30.14 Robert's Rules of Order
- 30.15 Objections on procedural matters
- 30.16 Adjournment
- 30.17 Special meetings
- 30.18 Minutes
- 30.19 Terms of office

§ 30.01 TIME AND PLACE OF MEETINGS.

The City Council shall have regular sessions on the first and third Tuesday of each month at 6:30 p.m. If the date falls on a holiday, the Council shall elect an appropriate day for rescheduling the meeting or cancel the meeting. Adjourned and special sessions may be held at any time the Council deems proper. All meetings shall be held in the City Hall.

('89 Code, § 4.010)

§ 30.02 PRESIDING OFFICER.

The Mayor shall preside at all meetings of the Council. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the members shall elect one of their number a temporary chair. The Acting Mayor and temporary chair, when occupying the place of the Mayor, shall have the same privileges as other members.

('89 Code, § 4.020)

§ 30.03 QUORUM.

At all meetings of the Council a majority of the Council members elected shall constitute a quorum to do business, but a minority may adjourn from day to day and may compel the attendance of absentees by a fine not exceeding \$10 for each offense, unless a reasonable excuse be offered.

('89 Code, § 4.030)

§ 30.04 ORDER OF BUSINESS.

(A) At the hour appointed for meeting, the members shall be called to order by the Mayor, and in the Mayor's absence by the Acting Mayor, and the absence of both, by the City Manager. The City Manager shall call the roll, note the absentees and announce whether a quorum be present. In the absence of the City Manager, the Mayor shall appoint a Secretary pro tem.

(B) Upon the appearance of a quorum, the Council shall proceed to business as set forth in the Agenda.

('89 Code, § 4.040) (Am. Ord. 728, passed 12-17-2013)

§ 30.05 POWERS OF MAYOR.

The Mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the Council. The Mayor may make motions, second motions or speak on any questions; provided, however, that in order to do so, upon demand of any one Council member, the Mayor shall vacate the chair and designate a Council member to preside temporarily. The Mayor shall be entitled to vote like other members of the Council.

('89 Code, § 4.050)

§ 30.06 SPEAKING.

Every member, previous to his or her speaking, shall address the chair and shall not proceed until he or she has been recognized by the chair. He or she shall indulge in no personalities and shall confine his or her remarks to the matter under debate. No member shall speak more than twice on any question, nor more than five minutes each time without unanimous consent of the Council. A member called to order shall immediately suspend his or her remarks until the point of order is decided by the chair.

('89 Code, § 4.060)

§ 30.07 MOTIONS AND RESOLUTIONS.

(A) Every motion except to adjourn, postpone, reconsider, commit, lay on the table or for the previous question shall be reduced to writing if the chair or any member requires it; when made and seconded, it shall be stated by the chair or if written shall be read by the City Manager. A motion may be withdrawn before decision or amendment, any disposition thereof has been made or a vote taken thereon.

(B) When a question is under debate no motion shall be entertained, unless to adjourn or lay on the table, to act on the previous questions, to postpone, to commit or to amend, which several motions shall have precedence in the order in which they are named and the first three shall be decided without debate.

('89 Code, § 4.070)

§ 30.08 VOTING.

(A) Votes of the members on any business coming before the Council may be voice vote, standing vote or in such other manner of voting as may signify the intention of the members.

(B) Every member shall vote in such case unless the Council by majority vote shall excuse a member from voting or the member

shall have an interest in the matter being voted upon, in which case the member shall not vote.

(C) All questions shall be put in the order in which they are moved, except in case of privileged questions.

(D) The previous question shall be put in these words: "Shall the main question now be put?" It shall be admitted on demand of any two members and until decided shall preclude all amendments and debate of the main question.

('89 Code, § 4.080)

§ 30.09 COMMITTEES.

Committees shall be appointed by the Mayor, and the first person named on the committee shall be chair thereof. It shall be the duty of each committee to act promptly and faithfully in all matters referred to it and to make its report at the next meeting of the Council.

('89 Code, § 4.090)

§ 30.10 PASSED ORDINANCES.

After an ordinance shall have passed, a complete and accurate copy as amended shall be made by the City Manager and shall be signed by the Mayor, or in his or her absence by the Acting Mayor, and deposited with the City Manager, who shall attest, seal, number, file and record or place the same permanently in the ordinance book. Entry of the complete ordinance as amended directly into the ordinance book with original signatures and seal thereon shall be compliance with this section. The affidavit of publication shall be permanently inserted in the ordinance book after each ordinance.

('89 Code, § 4.100)

§ 30.11 PETITIONS TO BE READ.

Petitions and other papers addressed to the Council shall be read by the City Manager upon presentation of the same to the Council.

('89 Code, § 4.110)

§ 30.12 ADMISSIONS TO COUNCIL MEETINGS.

All sessions of the Council shall be public unless closure is specifically authorized by the Open Meeting Law, M.S. Chapter 13D, as it may be amended from time to time. No person, other than the Mayor and other members of the Council, shall be admitted within the bar of the Council, except city officers. No person other than a member shall address the Council, except with the consent of the members present or by a vote of a majority of the members present. The Council may enforce order at the Council meeting in any matter it deems sufficient.

('89 Code, § 4.120)

§ 30.13 SUSPENSION OF RULES.

These rules, or any of them, may be temporarily suspended by consent of a majority of all Council members and shall not be repealed, altered or amended, unless by concurrence of majority of the whole Council and upon notice given at two preceding meetings.

('89 Code, § 4.130)

§ 30.14 ROBERT'S RULES OF ORDER.

In all points not covered by this chapter, the Council shall be governed in its procedure by *Robert's Rules of Order*, current edition, unless otherwise decided by the Council.

(`89 Code, § 4.140)

§ 30.15 OBJECTIONS ON PROCEDURAL MATTERS.

The foregoing rules are adopted to facilitate the transaction of the Council business and functions. They should not be permitted to defeat or hinder the plainly expressed intent and desire of the Council. Informal compliance and substantial performance shall be sufficient under the foregoing rules in the absence of objection reasonably taken. Objection is declared not to have been reasonably taken as to procedural matters provided for herein if a Council member present at a meeting fails to object during the meeting and request compliance with these rules, and such objection shall not be reasonably taken if taken by an absent member later than the next regular meeting after the proceedings to which objection is made.

(`89 Code, § 4.150)

§ 30.16 ADJOURNMENT.

The Council may at any time by a majority vote of those present adjourn from time to time to a specific date and hour whether or not a quorum is present.

(`89 Code, § 4.160)

§ 30.17 SPECIAL MEETINGS.

Special meetings may be called by the Mayor or by any two members of the City Council upon at least 24 hours written notice to each member of the City Council. This notice shall be mailed to and either delivered personally to each member or shall be left at the member's usual place of residence with some responsible person. Pursuant to M.S. § 16D.04, as it may be amended from time to time, written notice of any special meeting shall be posted giving the date, time, place and purpose of the meeting at least three days before the meeting. Written notice shall be mailed at least three days before the meeting to anyone who has filed a written request for notice of special meetings. In calculating the three days, if the last day falls on a Saturday, Sunday or legal holiday, the next regular business day shall be counted as the third day. The only business which may be discussed and acted upon at the special meeting are those items contained in the notice of the special meeting.

(`89 Code, § 4.170)

§ 30.18 MINUTES.

(A) Minutes of the meeting shall be kept by the City Manager. They shall be signed by the City Manager and shall constitute an official record of the Council proceedings. Upon approval of the minutes at a subsequent meeting of the Council, the Mayor shall sign the minutes. Lack of the Mayor's signature or Council approval shall not invalidate the minutes as official records.

(B) In the event the City Manager shall fail or decline to amend or change the minutes, upon informal request, at the time they are submitted for approval, the Council may by motion carried by majority vote amend the minutes. Such amending motion shall become a part of the minutes of the subsequent meeting.

(`89 Code, § 4.180)

§ 30.19 TERMS OF OFFICE.

(A) The term of office of mayor shall be four years until his or her successor is chosen and qualified.

(B) The term of office for a Council member shall be four years and until their successors are chosen and qualified.

City Manager

- 31.01 Generally
- 31.02 Appointment of personnel
- 31.03 Control
- 31.04 Attendance at Council meetings
- 31.05 Recommendation of ordinances and resolutions
- 31.06 Financial matters
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City Finance Director

- 31.25 Position created
- 31.26 Bookkeeping duties
- 31.27 Finance Director also City Treasurer
- 31.28 Annual audits
- 31.29 Fidelity bond
- 31.30 Additional duties and responsibilities

Fire Department

- 31.40 Generally

Other Departments

- 31.50 Other departments

CITY MANAGER

§ 31.01 GENERALLY.

The Manager shall have the powers and duties set forth in this chapter. The City of North St. Paul is a plan B city, City Manager form of government, meaning the Council has policy-making and legislative authority, but administration of the government is the Manager's responsibility.

('89 Code, § 5.010)

§ 31.02 APPOINTMENT OF PERSONNEL.

The Manager shall appoint and remove, except as provided herein, upon the basis of merit and fitness and subject to any applicable civil service provisions, the City Manager, all heads of departments and all subordinate officers and employees; but the appointment and removal of the Attorney shall be subject to the approval of the Council.

('89 Code, § 5.030)

§ 31.03 CONTROL.

The Manager shall exercise control over all departments and divisions of the City Administration.

('89 Code, § 5.040)

§ 31.04 ATTENDANCE AT COUNCIL MEETINGS.

The Manager shall attend all meetings of the Council with the right to take part in the discussions but not to vote; but the Council may in its discretion exclude the Manager from any meetings at which his or her removal is considered.

('89 Code, § 5.050)

§ 31.05 RECOMMENDATION OF ORDINANCES AND RESOLUTIONS.

The Manager shall recommend to the Council for adoption such measures as he or she may deem necessary for the welfare of the people and the efficient administration of the affairs of the city.

('89 Code, § 5.060)

§ 31.06 FINANCIAL MATTERS.

The Manager shall keep the Council fully advised as to the financial condition and needs of the city, and he or she shall prepare and submit to the Council the annual budget.

('89 Code, § 5.070)

§ 31.07 CODE OF ADMINISTRATIVE PROCEDURE.

The Manager shall, when directed to do so by the Council, prepare and submit to the Council for adoption an administrative code incorporating the details of administrative procedure, and from time to time he or she shall suggest amendments to such code.

('89 Code, § 5.080)

§ 31.08 ADDITIONAL DUTIES.

The Manager shall perform such other duties as may be prescribed by the Minnesota Statutes relating the Optional Plan B Cities or required by ordinances or resolutions adopted by the Council.

('89 Code, § 5.090)

§ 31.09 RELATIONSHIP WITH COUNCIL.

Neither the Council nor any of its members shall dictate the appointment, discipline or discharge of any person to office or employment by the Manager or in any manner interfere with the Manager or prevent him or her from exercising his or her own judgment in the appointment, discipline or discharge of offices and employees in the administrative service. Except for the purpose of inquiry, the Council and its members shall deal with and control the administrative service solely through the Manager. Neither the Council nor any of its members shall give orders to any subordinate of the Manager, either publicly or privately.

('89 Code, § 5.100)

§ 31.25 POSITION CREATED.

There is created within the city the position of the City Finance Director.

('89 Code, § 13.010)

§ 31.26 BOOKKEEPING DUTIES.

All bookkeeping duties of the City Manager are transferred to the City Finance Director.

('89 Code, § 13.020)

§ 31.27 FINANCE DIRECTOR ALSO CITY TREASURER.

The City Finance Director shall also be the City Treasurer.

('89 Code, § 13.030)

§ 31.28 ANNUAL AUDITS.

The financial affairs of the city shall be audited annually, under the direction of the City Manager.

('89 Code, § 13.040)

§ 31.29 FIDELITY BOND.

The City Finance Director shall furnish a fidelity bond to the city in such amount as the Council shall direct, which shall be paid for by the city.

('89 Code, § 13.050)

§ 31.30 ADDITIONAL DUTIES AND RESPONSIBILITIES.

The City Finance Director shall have such other duties and responsibilities as the City Manager may assign to such position.

('89 Code, § 13.051)

FIRE DEPARTMENT

§ 31.40 GENERALLY.

(A) *Department established.* There is hereby established an executive department of the City of North Saint Paul to be known as the Fire Department. The head of such department shall be the Fire Chief, who shall be appointed in accordance with the provisions of City Code.

(B) *Departmental functions.* The department shall be responsible for the establishment, maintenance and administration of an organized method for fire fighting, fire prevention inspection, and emergency rescue within the city, and shall perform the following functions:

(1) Take all necessary steps for the extinguishment of fires within the city, including utilization of all necessary personnel and equipment therefor, the destruction of any building or structure and the removal of any obstruction for the purpose of checking or extinguishing any such fire.

- (2) Possess the police powers necessary to carry out the duties imposed upon them by law, while engaged in the service of fire extinguishment.
- (3) Assist in the re-establishment of order in the event of civil disturbance, disaster or riot or any other declared emergency.
- (4) Provide for and administer a program for the training of firefighters.
- (5) Maintain a record of all fires which occur within the city requiring the services of the department.
- (6) Investigate the causes of all fires and provide for written reports of all suspected arsons.
- (7) Possess the police powers necessary to carry out the duties imposed upon them by law, while engaged in the service of fire protection.
- (8) Inspect all buildings and structures as provided for by the state fire code, and for the issuance and renewal of certificates of occupancy.
- (9) Provide emergency rescue and ambulance service.

(C) *Fire Chief; powers and duties.*

(1) The Fire Chief shall be appointed by the City Manager. The Fire Chief shall be accountable to the City Manager and, subject to his or her supervision and control, shall administer the affairs of the department. He or she shall have general authority and control over all departmental staff and shall oversee the proper fulfillment of all tasks and duties assigned to the department. He or she shall have the power to prescribe such rules and regulations as he or she deems necessary or expedient for the proper operation of the department and to that end shall keep himself or herself informed of the latest administrative practices. The Fire Chief with the approval of the City Manager shall have the power and duty to take all personnel actions, including hiring, assigning and reassigning employees, including supervisory personnel, within his or her department and shall supervise their performance.

(2) The Fire Chief shall be responsible for:

- (a) Coordination of all emergency preparedness functions of the city, compatible with the functions of the federal and state governments and adjacent political subdivisions.
- (b) Establishment of policies for effective use of manpower resources and facilities to deal with any major natural disaster or man-made incident.
- (c) Providing for emergency functions to prevent and minimize the effects of disasters on persons and providing for the emergency repair of damage to public facilities resulting from enemy attack, fire, flood, tornado, earthquake, or other natural causes.

OTHER DEPARTMENTS

§ 31.50 OTHER DEPARTMENTS.

There shall be established in the city the following positions and departments as deemed necessary by the City Manager with the consent of the City Council:

- (A) Police Chief;
- (B) Community Services Director:
 - (1) Administration;
 - (2) Code Enforcement;
 - (3) Elections;
 - (4) Engineering;
 - (5) Inspections;
- (C) Public Works Director;

- (1) Park Maintenance;
- (2) Street Maintenance;
- (3) Water and Sewer;
- (D) Electric Department Director;
- (E) Recreation/Community Center Director.

CHAPTER 32: BOARDS AND COMMISSIONS

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GENERAL PROVISIONS

§ 32.01 GENERALLY.

The city shall create and support organizations that enhance community engagement in the city's decision-making process. All boards and commissions shall be subject to the provisions of this chapter, unless otherwise specified in city ordinance or state law.

(Ord. 737, passed 6-16-2015)

§ 32.02 OPEN MEETING LAW.

All meetings of the boards or commissions established under this chapter shall be held in compliance with the Open Meeting Law, M.S. Chapter 13D, as it may be amended from time to time.

(Ord. 737, passed 6-16-2015)

§ 32.03 PUBLIC PROCESS.

As part of its obligations and responsibilities, the North St. Paul City Council recognizes the value of public process. Such public process can be achieved by citizen-based representation on boards and commissions. Therefore, from time to time, the City Council shall come to rely on the advice and consent of its boards and commissions in making its decisions.

(Ord. 737, passed 6-16-2015)

§ 32.04 ESTABLISHMENT.

Authority to Establish. Pursuant to M.S. § 412.621, and other such statutes as are specifically cited, the Council establishes the following boards and commissions. The City Council has the authority to establish and abolish such boards and commissions as it deems necessary.

(Ord. 737, passed 6-16-2015)

§ 32.05 MEMBERSHIP.

(A) *Regular members.* Regular members of boards and commission established by the Council shall be adult residents or business owners located within the North St. Paul City limits unless otherwise expressly stated by ordinance. Members who discontinue legal residency in the city shall automatically be deemed to have resigned from office as of the date of such discontinuance.

(B) *Student members.* Student members shall be residents located within the North St. Paul City limits and enrolled full-time in secondary school. Student members shall be non-voting.

(C) *Ex officio.* The City Council may, in its discretion, appoint other persons to serve on the board or commission in a non-voting capacity.

(Ord. 737, passed 6-16-2015)

§ 32.06 APPOINTMENT AND TERMS.

(A) *Appointment.* Regular members of boards and commissions shall be appointed by the Mayor with the approval of the City Council.

(B) *Student members.* Student members shall be appointed by majority vote of the Council and shall serve terms of membership not to exceed one year per term.

(C) *Terms.* Board and commission member appointees shall serve staggered terms of membership not to exceed three years per term, except as noted below, commencing on the first day of January in the year of the appointment. Upon expiration of a term, the appointee shall continue until reappointed or a successor is appointed.

(D) *Staggered terms.* Terms of membership shall be staggered so that no more than one-half of the terms on a board or commission expire in any particular year.

(E) *Resignation and removal.* Members may resign voluntarily by letter or email to the City Clerk or be removed by majority vote of the Council or pursuant to § 32.05 Membership or § 32.12 Attendance Requirements.

(F) *Vacancies.* Vacancies in membership shall be filled by the Mayor with the approval of the City Council for the balance of the unexpired term.

(G) *Oath.* Every appointed member shall, before exercising any of his or her duties, take an oral oath that he or she will faithfully discharge the duties of the office.

(Ord. 737, passed 6-16-2015)

§ 32.07 COMMITTEES AND SUBCOMMITTEES.

(A) *Establishment.* A board or commission may, with specific approval of the Council, establish committees, subcommittees, committees of the whole or working groups that include members of the board or commission and additional persons as requested by the board or commission.

(B) *Scope.* A committee, subcommittee, committee of the whole or working group may not engage in activities, functions, or duties outside the scope of authority granted to the board or commission by which it was established.

(Ord. 737, passed 6-16-2015)

§ 32.08 ORGANIZATION.

(A) *Chairperson.* At the first regular meeting of the calendar year, the board or commission shall elect a Chairperson and a Vice-Chairperson from among its appointed members, each for a term of one year. No person shall serve more than three consecutive one-year terms as Chairperson of a particular board or commission, unless a challenge is not present then the existing Chairperson may remain for an additional term.

(B) *City staff.* The City Clerk or Administrator, Building Official, City Planner, City Engineer, City Attorney, or other city staff may act as staff for the boards or commissions. The city staff may provide the boards and commissions with information, memorandums, perform secretarial duties, and may be responsible for the keeping of records.

(Ord. 737, passed 6-16-2015)

§ 32.09 TIME, LOCATION AND CONDUCT OF MEETINGS.

(A) *Regular meetings.* All board and commission meetings are open meetings subject to the Minnesota Open Meeting Law and shall be held at a fixed time and on a fixed date as shall be determined by the board or commission. The City Clerk shall give notice of all board and commission meetings and locations as required for meetings of public bodies.

(B) *Public comment.* All board and commission meetings shall include scheduled time for public comment.

(C) *Quorum.* A simple majority of voting members, appointed and serving, shall constitute a quorum for any regular or special meeting. If a quorum is not established or maintained during the course of a meeting, no votes on board or commission business may be taken except a motion to adjourn or recess.

(D) *Special meetings.* Any board or commission Chairperson, or in the case of the Chairperson's absence, by the Vice-Chairperson, may call a special meeting. A special meeting may also be directed by the City Council or Mayor.

(Ord. 737, passed 6-16-2015)

§ 32.10 PURPOSES AND DUTIES GENERALLY.

(A) *Scope.* All boards and commissions established by the Council shall be advisory to the Council and shall have the responsibility to:

(1) Investigate matters within the scope of the particular board or commission or as specifically directed by the Council.

(2) Communicate the viewpoint or advice of the board or commission to the City Council.

(3) At the direction of the Council, hold hearings, receive evidence, conduct investigations, and, on the basis of such hearings, evidence and investigations, make decisions and recommendations to the Council.

(B) *Annual report.* All boards and commissions shall prepare a report to the City Council by the second Council meeting of each year outlining the actions and activities during the preceding year.

(Ord. 737, passed 6-16-2015)

§ 32.11 MEETING MINUTES.

(A) *Official record.* Approved minutes of board or commission proceedings shall be public record; the city shall retain a copy of the official minutes of each board or commission meeting in accordance with applicable state law.

(B) *Recording.* Each board or commission shall have meeting minutes prepared and recorded. Minutes so recorded shall be reviewed and approved by the board or commission and a copy forwarded to the City Clerk. The manager may make available city staff members to record and prepare minutes of board and commission meetings.

(C) *Distributed to City Council.* Official minutes of each board or commission meeting shall be distributed to the Council prior to the first regular Council meeting after approval of the minutes by the board or commission.

(Ord. 737, passed 6-16-2015)

§ 32.12 ATTENDANCE REQUIREMENTS.

(A) *Purpose.* To assist boards and commissions in fulfilling their purposes and duties and to ensure that they are not prevented from doing so by the repeated absence of their members, the Council hereby establishes an attendance policy for members serving on boards and commissions.

(B) *Attendance.* Duly appointed members of boards and commissions shall be required to attend no less than half the official

meetings of the board or commission held within a given calendar year unless specifically excused by the Chair of such board or commission and said excused absences noted in the minutes. Failure to attend no less than half of the official meetings within a given calendar year, without excuse of the Chairperson, shall be considered as formal notice of resignation from said board or commission. In addition, failure to attend four- consecutive regular meetings without excuse of the Chairperson, shall be considered as formal notice of resignation from said board or commission.

(C) *Exceptions.* The requirements of this subsection shall not apply to attendance at special meetings, or of meetings of committees or subcommittees, including committees of the whole, established by a board or commission pursuant to § 32.07 Committees and Subcommittees.

(D) *Annual review.* The Council shall conduct an annual review of the attendance of members of boards and commissions established by the Council.

(E) *Vacancies.* The successor to any member of a board or commission who has been removed pursuant to this subsection shall be appointed pursuant to § 32.06 Appointment and Terms.

(Ord. 737, passed 6-16-2015)

§ 32.13 CONTINUING EDUCATION.

Members of the boards and commissions shall be required to complete various continuing education courses, lectures, webinars or seminars as outlined by City Council or city staff on an annual basis.

(Ord. 737, passed 6-16-2015)

§ 32.14 COMPENSATION.

Members of the boards and commissions shall serve on a strictly non-compensated volunteer basis.

(Ord. 737, passed 6-16-2015)

§ 32.15 EXPENDITURES.

No expenditures by a board or commission shall be made unless and until authorized for the purpose by the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.16 COUNCIL LIAISON.

(A) *City Council Member.* A Council Member may be appointed to a board or commission as a liaison by the Mayor with approval of the City Council. The Council liaison shall serve for a one- year term, to expire on December 31 of each year. The Council liaison shall serve as a non-voting member of the board or commission and shall not count for quorum purposes. Council liaisons may participate in discussion of matters before the board or commission. The Council liaison may not hold an office on the board or commission, such as the Chairperson or Vice-Chairperson.

(B) *Alternates.* In the event the City Council liaison is not able to attend the board or commission meeting, the selected alternate shall take their place. This alternate shall be a City Council member and selected by the Mayor with the approval of the City Council.

(Ord. 737, passed 6-16-2015)

PLANNING COMMISSION

§ 32.25 ESTABLISHMENT OF THE PLANNING COMMISSION.

A Planning Commission for the city is hereby established. The Planning Commission shall be the city planning agency authorized by M.S. § 462.354, Subd. 1, as it may be amended from time to time. Except as otherwise provided in this chapter, the Planning Commission shall be advisory directly to the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.26 COMPOSITION.

The Planning Commission shall consist of seven members to be appointed by the Mayor with the approval of the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.27 POWERS AND DUTIES.

(A) *Generally.* The Planning Commission shall have the powers and duties given to city planning agencies generally by law, including the authority to conduct public hearings as directed by City Council or city policy. The Planning Commission shall also exercise the duties conferred upon it by this code.

(B) *Comprehensive Plan.* It shall be the purpose of the Planning Commission to prepare and adopt a Comprehensive Plan for the physical development of the city, including proposed public buildings, street arrangements and improvements, efficient design of major thoroughfares for moving of traffic, parking facilities, public utilities services, parks and playgrounds, a general land use plan and other matters relating to the physical development of the city. This plan may be prepared in sections, each of which shall relate to a Comprehensive Plan program. After the City Council has adopted the Comprehensive Plan, the Planning Commission may periodically, but at least every five years, review the Comprehensive Plan and any ordinances or programs implementing the plan.

(C) *Means of executing plan.* Upon the adoption of a comprehensive plan or any section thereof, it shall be the concern of the Planning Commission to recommend to the City Council reasonable and practical means for putting into effect the plan or section thereof, in order that it will serve as a pattern and guide for the orderly physical development of the city and as a basis for judging the timely disbursements of funds to implement the objective. Means of effectuating the plan shall, among other things, consist of a zoning ordinance, subdivision regulations, capital improvement programming and technical review, and recommendations of matters referred to the Planning Commission by the City Council.

(D) *Zoning Ordinance.* Pursuant to M.S. § 462.357, Subd. 3, as it may be amended from time to time, after adoption of a Comprehensive Plan, the Planning Commission shall review all proposed amendments to the zoning ordinance, conduct public hearings as directed by City Council or city policy, and make recommendations to the City Council concerning zoning ordinance amendments and their relation to the city's Comprehensive Plan and other land use controls. The Planning Commission shall report its recommendations to the City Council for action.

(E) *Conditional Use Permits.* The Planning Commission may make recommendations on all requests for a conditional use permit under the terms of the zoning ordinance and conduct public hearings as directed by City Council or city policy. The Planning Commission shall report its recommendations to the City Council for action.

(F) *Interim Use Permits.* The Planning Commission may make recommendations on all requests for an interim use permit under the terms of the zoning ordinance and conduct public hearings as directed by City Council or city policy. The Planning Commission shall report its recommendations to the City Council for action.

(G) *Subdivision regulations.* The Planning Commission may make recommendations in relation to the subdividing of land as prescribed by the ordinance. The Planning Commission shall report its recommendations to the City Council for action.

(H) *Variances.* All applications for variances shall be referred to the Planning Commission and forwarded with or without recommendations directly to the City Council for its decision.

(I) *Site Plan Review.* The Planning Commission may make recommendations on all requests for site plan review under the terms of the zoning ordinance and conduct public hearings as directed by City Council or city policy. The Planning Commission shall report its recommendations to the City Council for action.

(J) *Official map.* Pursuant to M.S. § 462.359, Subd. 2, as it may be amended from time to time, after adoption of a major thoroughfare plan and a community facilities plan (which may be contained in the city comprehensive plan or adopted separately), the Planning Commission, for the purpose of carrying out the policies of the major thoroughfare plan and community facilities plan, may

prepare and recommend to the governing body a proposed official map covering the entire municipality or any portion thereof. The official map or maps shall be prepared in sufficient detail to permit the establishment of the future acquisition lines on the ground. In unplatted areas, a minimum of a centerline survey shall have been made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shown on the official map shall be attested to by a licensed land surveyor.

(K) *Appeals to denials of zoning, land use or building permits based on the official map.* All appeals to denials of zoning, land use or building permits based on the official map may be referred to the Planning Commission, and forwarded with or without recommendations directly to the City Council. The City Council shall have the powers of a Board of Appeals and Adjustments as provided for in M.S. § 462.359, Subd. 4, as it may be amended from time to time for its decision.

(L) *Purchase and sale of real property.* Pursuant to M.S. § 462.356, Subd. 2, as it may be amended from time to time, after adoption of a Comprehensive Plan, the Planning Commission shall review all proposed acquisitions or disposals of publically owned interests in real property within the city by the municipality, or any special district or any agency thereof, or any other political subdivision having jurisdiction within the municipality, and make findings as to the compliance of the proposed acquisition or disposal of real property with the Comprehensive Plan. The City Council may by resolution adopted by two-thirds vote dispense with the requirements of this section when in its judgment it finds that the proposed acquisition or disposal of real property has no relationship to the Comprehensive Plan.

(M) *Capital improvements.* Pursuant to M.S. § 462.356, Subd. 2, as it may be amended from time to time, after adoption of a Comprehensive Plan, the Planning Commission shall review all proposed capital improvements within the city by the municipality, or any special district or any agency thereof, or any other political subdivision having jurisdiction within the municipality, and make findings as to the compliance of the proposed capital improvements with the Comprehensive Plan.

(N) *Comprehensive Plan amendments.* Pursuant to M.S. § 462.355, Subd. 2, 3, as it may be amended from time to time, after adoption of Comprehensive Plan, the Planning Commission shall review all proposed amendments to the Comprehensive Plan, hold at least one public hearing, and make recommendations to the City Council Comprehensive Plan amendments and their relation to the City Comprehensive Plan and other land use controls. The Planning Commission shall report its recommendations to the City Council for action.

(O) *City plans.* After adoption of the Downtown Design Manual, Redevelopment Master Plan, Living Streets Plan, and Park Improvement Plan, the Planning Commission shall review all proposed amendments, conduct public hearings as directed by City Council or city policy, and make recommendations to the City Council concerning the amendments and their relation to the City's Comprehensive Plan and other land use controls. The Planning Commission shall report its recommendations to the City Council for action.

(Ord. 737, passed 6-16-2015)

DESIGN REVIEW COMMISSION

§ 32.35 ESTABLISHMENT OF THE DESIGN REVIEW COMMISSION.

A Design Review Commission for the city is hereby established. The City Council hereby declares as a matter of public policy that the encouragement of the orderly and harmonious physical development of the Downtown as intended by the city's Comprehensive Plan and the Downtown Design Manual. The historic preservation, restoration, and enhancement and use of sites, buildings, structures and other objects is a public necessity and is required in the interest of the people. Except as otherwise provided in this chapter, the Design Review Commission shall be advisory directly to the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.36 COMPOSITION.

The Design Review Commission shall consist of five members to be appointed by the Mayor with the approval of the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.37 POWERS AND DUTIES.

(A) *Generally.* The Design Review Commission shall have the powers and duties to safeguard the resources of the Downtown by preserving and enhancing sites, structures, districts and landmarks which reflect elements of the city's cultural, social, economic, political or architectural history.

(B) *Purpose.* The Design Review Commission is established to encourage harmonious growth and appearance of structures and properties, preserve historical heritage, maintain and improve property values by ensuring property owner compliance with design regulations of the Zoning Code, and to encourage development of properties as intended by the city's Comprehensive Plan and Zoning Code.

(C) *Duties.* The Design Review Commission shall have the following duties:

(1) *Design Review applications.* The Design Review Commission may make recommendations on all requests for Design Review applications under the terms of the Zoning Code, Downtown Design Manual, and conduct public meetings as directed by City Council or city policy. The Design Review Commission shall report its recommendations to the City Council for action.

(2) *Comprehensive Plan.* It shall be the directive of the Design Review Commission to give due regard to the city's Comprehensive Plan which specifically refers to the Downtown; promoting and preserving historical elements, creating visual interest, providing for additional landmarks and creating user friendly edges and form.

(3) *Downtown Design Manual.* The Design Review Commission shall give due regard to the Downtown Design Manual. After the City Council has adopted the Downtown Design Manual, the Commission may periodically, but at least every five years, review the manual, and if necessary, update the manual. The Commission shall review all proposed amendments to the Downtown Design Manual, conduct public hearings as directed by City Council or city policy, and make recommendations to the City Council concerning the amendments and their relation to the city's Comprehensive Plan and other land use controls. The Commission shall report its recommendations to the City Council for action.

(4) *Redevelopment Master Plan.* It shall be the directive of the Design Review Commission to give due regard to the city's Redevelopment Master Plan which specifically refers to the Downtown; promoting commercial and mixed-use transitions and pedestrian-friendly amenities.

(Ord. 737, passed 6-16-2015)

ENVIRONMENTAL ADVISORY COMMISSION

§ 32.45 ESTABLISHMENT OF THE ENVIRONMENTAL ADVISORY COMMISSION.

An Environmental Advisory Commission for the city is hereby established. The City Council hereby declares as a matter of public policy that the environmental policies, education, and quality of the environment is a public necessity and is required in the interest of the people. Accept as otherwise provided in this chapter, the Environmental Advisory Commission shall be advisory directly to the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.46 COMPOSITION.

The Environmental Advisory Commission shall consist of five members to be appointed by the Mayor with the approval of the City Council. One non-resident of the City of North St. Paul is allowed to serve as a voting member of the five member Commission and shall count for quorum purposes.

(Ord. 737, passed 6-16-2015)

§ 32.47 POWERS AND DUTIES.

(A) *Generally.* The Environmental Advisory Commission shall have the powers and duties to provide recommendations to advance the city's environmental goals, policies, and programs, engage the community, encourage relationships and partnerships, and assist with other environmental interests and concerns that the Council may deem appropriate.

(B) *Purpose.* To enhance the city's environmental stewardship, elicit community feedback, provide for community outreach and education, promote awareness of environmental issues, and enhance the quality of the city's lakes, ponds and streams.

(C) *Duties.* The Environmental Advisory Commission shall have the following duties:

(1) *Policy.* Advise the City Council with respect to environmental policies including:

(a) Review and promote ordinances relating to protecting the environment including erosion control, shoreland zoning, surface water management, and wetland protection.

(b) *Comprehensive Plan.* It shall be the directive of the Commission to give due regard to the city's Comprehensive Plan which specifically refers to the natural environment where the city's environmental qualities need to be protected and preserved.

(c) *Living Streets Plan.* The Commission shall give due regard to the Living Streets Plan. The Commission may periodically, but at least every five years, review the manual, and if necessary, update the plan. The Commission shall review all proposed amendments to the Living Streets Plan, conduct public hearings as directed by City Council or city policy, and make recommendations to the City Council concerning the amendments and their relation to the city's Comprehensive Plan and other land use controls. The Commission shall report its recommendations to the City Council for action.

(d) *Select Committee on Recycling and the Environment (SCORE).* As part of Minnesota's Waste Management Act, score funding provides counties with resources to develop waste reduction, recycling and solid waste management programs. The Commission shall recommend score fund allocation to the City Council.

(e) *Tree Board.* The Commission shall serve as the Tree Board for the Tree City USA program and review requests and make recommendations to the City Council.

(f) *Storm Water Pollution Prevention Plan (SWPPP).* The Commission shall serve in a supportive capacity to the public participation and educational elements of the SWPPP minimum control measures.

(2) *Education.* Promote public awareness of the environment, sustainability, and natural resource management.

(Ord. 737, passed 6-16-2015)

PARK AND RECREATION COMMISSION

§ 32.55 ESTABLISHMENT OF THE PARK AND RECREATION COMMISSION.

A Parks and Recreation Commission for the city is hereby established. The City Council hereby declares as a matter of public policy that parks, open spaces and trails and associated open water, lakes, ponds, streams and wetlands contribute significantly to enhancement and image of the city as intended by the city's Comprehensive Plan and the Park Improvement Plan. Except as otherwise provided in this chapter, the Parks and Recreation Commission shall be advisory directly to the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.56 COMPOSITION.

The Parks and Recreation Commission shall consist of nine members to be appointed by the Mayor with the approval of the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.57 POWERS AND DUTIES.

(A) *Generally.* The Parks and Recreation Commission shall have the powers and duties to establish, improve, develop and maintain the parks, open spaces and trails system which include policies governing the maintenance and public use of the parks and trails within the city as well as activity surrounding the associated open water, lakes, ponds, streams and wetlands.

(B) *Purpose.* The Parks and Recreation Commission is established in recognition the importance of adequate, useful and attractive parks, open spaces, trails and associated open water to promote public health and active living, provide for leisure activities, maintain property values and sustain a high quality of life in the community.

(C) *Duties.* The Parks and Recreation Commission shall have the following duties:

(1) *Use.* Prepare operating policies and procedures for use of existing parks.

(2) *Park Fund.* Make recommendations to the City Council related to programs, projects, and improvements.

(3) *Public Land Dedication.* Review requests and make recommendations to the City Council.

(4) *Comprehensive Plan.* It shall be the directive of the Park and Recreation Commission to give due regard to the city's Comprehensive Plan which specifically refers to Parks, Open Spaces and Trails and its coordinating map in which the goal and vision is to enhance and expand the city's system.

(5) *Park Improvement Plan.* The Park and Recreation Commission shall give due regard to the Park Improvement Plan. The Park Improvement Plan shall incorporate the Policies and Program elements of the Parks, Open Spaces and Trails chapter of the city's Comprehensive Plan and shall include a five-year Capital Improvement Plan. After the City Council has adopted the Park Improvement Plan, the Commission shall annually review the manual, and if necessary, update the plan. The Commission shall review all proposed amendments to the Park Improvement Plan, conduct public hearings as directed by City Council or city policy, and make recommendations to the City Council concerning the amendments and their relation to the city's Comprehensive Plan and other land use controls. The Commission shall report its recommendations to the City Council for action.

(6) *Capital Improvement Plan.* Prepare, and annually update for City Council approval, a five-year Capital Improvement Plan for the development of the city's Parks, Open Spaces and Trails system.

(Ord. 737, passed 6-16-2015)

BOARD OF APPEALS AND ADJUSTMENT

§ 32.65 ESTABLISHMENT OF THE BOARD OF APPEALS AND ADJUSTMENT.

A Board of Appeals and Adjustment for the city is hereby established. The Planning Commission shall serve as the Board of Appeals and Adjustment. Except as otherwise provided in this chapter, the Board of Appeals and Adjustment shall be advisory directly to the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.66 COMPOSITION.

The Board of Appeals and Adjustment shall consist of seven members to be appointed by the Mayor with the approval of the City Council.

(Ord. 737, passed 6-16-2015)

§ 32.67 POWERS AND DUTIES.

(A) *Generally.* The Board of Appeals and Adjustment shall act upon all questions that may arise in the administration of the zoning provisions, including interpretation of the zoning maps.

(B) *Purpose.* The Board of Appeals and Adjustment is established in order to grant variances and decide appeals.

(C) *Duties.* The Board of Appeals and Adjustment shall have the following duties:

(1) *Variances.* The Board shall make recommendations to the City Council regarding variances to the zoning provisions.

(2) *Appeals.* The Board shall hear and make recommendations to the City Council regarding appeals from and review any order,

requirement, decision or determination made by an administrative official charged with enforcing the zoning provisions. The appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a municipality, county or state.

(D) *Hearings.*

(1) Hearings shall be held by the Planning Commission in accordance with the Board's adopted rules for the transaction of its business. Any party may appear at the hearing in person or by agent or attorney.

(E) *Decision and Order.*

(1) The Board may recommend to reverse, affirm wholly or partly, or modify the order, requirement, decision, or determination appealed and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct issuance of the permit to the City Council. The City Council's decision shall be final except to the extent the aggrieved party may have a right to appeal questions of law and fact to the Ramsey County District Court.

(Ord. 737, passed 6-16-2015)

CHAPTER 33: CITY POLICY ON ABANDONED PROPERTY

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GENERAL PROVISIONS

§ 33.01 DISPOSITION OF ABANDONED PROPERTY.

- (A) *Procedure.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. § 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of §§ 33.15*et seq.*
- (B) *Storage.* The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are

unavailable or inadequate, the department may arrange for storage at a privately-owned facility.

(C) *Claim by owner.* The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

(D) *Sale.* If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the City Clerk or his or her designee after two weeks' published notice setting forth the time and place of the sale and a summary of the property to be sold.

(E) *Disposition of proceeds.* The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

§ 33.02 PERISHABLE PROPERTY.

If the property in possession of the city is such that it would perish within six months, the city could sell the same at public or private sale and account for the monies as stated above.

(`89 Code, § 11.070)

ABANDONED VEHICLES

§ 33.15 FINDINGS AND PURPOSE.

M.S. Chapter 168B, and Minn. Rules Chapter 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 33.15 through 33.25 of this code are adopted under the authority of M.S. § 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of M.S. § 168B or Minn. Rules Chapter 7035, as it may be amended from time to time, the statute or rule shall take precedence.

§ 33.16 DEFINITIONS.

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

ABANDONED VEHICLE.

(1) A motor vehicle, as defined in M.S. § 169.01 as it may be amended from time to time, that:

(a) Has remained illegally:

1. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or

2. On private property for a period of time, as determined under § 33.18(B), without the consent of the person in control of the property; and

(b) Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

(2) A classic car or pioneer car, as defined in M.S. § 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.

(3) Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. § 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.

(4) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not

considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

DEPARTMENT. The Minnesota Department of Public Safety.

IMPOUND. To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.

IMPOUND LOT OPERATOR or **OPERATOR.** A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. **OPERATOR** includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

JUNK VEHICLE. A vehicle that:

- (1) Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;
- (2) Is apparently inoperable;
- (3) Does not have a valid, current registration plate; and
- (4) Has an approximate fair market value equal only to the approximate value of the scrap in it.

MOTOR VEHICLE or **VEHICLE.** Has the meaning given "motor vehicle" in M.S. § 169.01, as it may be amended from time to time.

MOTOR VEHICLE WASTE. Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

MPCA or **AGENCY.** The Minnesota Pollution Control Agency.

NONPUBLIC IMPOUND LOT. An impound lot that is not a public impound lot.

PUBLIC IMPOUND LOT. An impound lot owned by or contracting with a unit of government under § 33.24.

UNAUTHORIZED VEHICLE. A vehicle that is subject to removal and impoundment pursuant to § 33.18(B), or M.S. § 169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

UNIT OF GOVERNMENT. Includes a state department or agency, a special purpose district, and a county, statutory or home rule charter city, or town.

VITAL COMPONENT PARTS. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train and wheels.

§ 33.17 VIOLATION TO ABANDON MOTOR VEHICLE.

Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor.

Penalty, see § 10.99

§ 33.18 AUTHORITY TO IMPOUND VEHICLES.

(A) *Abandoned or junk vehicles.* The City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle if the vehicle is on public property. If the abandoned or junk vehicle is located on private property, the vehicle shall not be removed or impounded until the provisions of § 33.18(C) are complied with.

(B) *Unauthorized vehicles.* The City Clerk, or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under M.S. § 169.041 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

- (1) In a public location not governed by M.S. § 169.041 as it may be amended from time to time:

- (a) On a highway and properly tagged by a peace officer, four hours;
 - (b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or
 - (c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or
- (2) On private property, only with the express permission of the owner of the property, a resident or other person in control of the premises:
- (a) That is single-family or duplex residential property, immediately;
 - (b) That is private, nonresidential property, properly posted, immediately;
 - (c) That is private, nonresidential property, not posted, 24 hours; or
 - (d) That is any residential property, properly posted, immediately.
- (3) If under division (B)(2) of this section, permission is not granted, then the city shall not remove and impound any vehicle until the procedure established in division (B)(2) of this section have been followed.

(C) If the vehicle is on private property, the City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle on private property only with the permission of the owner of the property, a resident, or other person in control of the premises. If permission is denied, the city may declare the existence of the abandoned or junk vehicle to be a nuisance and proceed to abate the nuisance as provided for in §§ 92.15 through 92.21. Once the abatement procedure has been completed, the city may apply for an order from a court of competent jurisdiction authorizing the removal and impoundment of the vehicle and, after the order has been granted, the city may then remove and impound the vehicle.

§ 33.19 SALE; WAITING PERIODS.

(A) *Sale after 15 days.* An impounded vehicle is eligible for disposal or sale under § 33.23, 15 days after notice to the owner, if the vehicle is determined to be:

- (1) A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or
- (2) An abandoned vehicle.

(B) *Sale after 45 days.* An impounded vehicle is eligible for disposal or sale under § 33.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

§ 33.20 NOTICE OF TAKING AND SALE.

(A) *Contents; notice given within five days.* When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:

- (1) Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
- (2) Inform the owner and any lienholders of their right to reclaim the vehicle under § 33.21; and
- (3) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under § 33.19 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to § 33.23.

(B) *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed

from or abandoned. Published notices may be grouped together for convenience and economy.

(C) *Unauthorized vehicles; notice.* If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under division (B) of this section, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

§ 33.21 RIGHT TO RECLAIM.

(A) *Payment of charges.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under § 33.19, after the date of the notice required by § 33.20.

(B) *Lienholders.* Nothing in this chapter shall be construed to impair any lien of a garagekeeper under the laws of this state, or the right of a lienholder to foreclose. For the purposes of this section, **GARAGEKEEPER** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

§ 33.22 OPERATOR'S DEFICIENCY CLAIM; CONSENT TO SALE.

(A) *Deficiency claim.* The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the costs of:

- (1) 25 days storage for a vehicle described in § 33.19(A); and
- (2) 55 days storage for a vehicle described in § 33.19(B).

(B) *Implied consent to sale.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under § 33.19 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

§ 33.23 DISPOSITION BY IMPOUND LOT.

(A) *Auction or sale.*

(1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under § 33.21, it may be disposed of or sold at auction or sale when eligible pursuant to §§ 33.20 and 33.21.

(2) The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(B) *Unsold vehicles.* Abandoned or junk vehicles not sold by the city or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with § 33.24.

(C) *Sale proceeds; public entities.* From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.

(D) *Sale proceeds; nonpublic impound lots.* The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of division (A) of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

§ 33.24 DISPOSAL AUTHORITY.

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

§ 33.25 CONTRACTS; REIMBURSEMENT BY MPCA.

(A) *MPCA review and approval.* If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to § 33.24, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under § 33.23. Except as otherwise provided in § 33.24, the MPCA shall not approve any contract that has been entered into without prior notice to and request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from time to time; does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

(B) *The city may perform work.* If the city utilizes its own equipment and personnel pursuant to its authority under § 33.24, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under § 33.23.

(C) *The city required to contract work.* The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

CHAPTER 34: ECONOMIC DEVELOPMENT AUTHORITY

Section

- 34.01 Definitions
- 34.02 Establishment
- 34.03 Name
- 34.04 Members
- 34.05 Administration
- 34.06 Modification
- 34.07 Report to Council
- 34.08 Executive Director
- 34.09 Conflicts of interest
- 34.10 Budget
- 34.11 Schedule of powers
- 34.12 Limit of powers

§ 34.01 DEFINITIONS.

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

AUTHORITY. An Economic Development Authority as defined by M.S. §§ 469.090 through 469.1081.

CITY. The City of North Saint Paul, Minnesota.

COUNCIL. The duly elected governing body of the City of North Saint Paul, Minnesota.

ENABLING RESOLUTION. The ordinance codified in this subchapter.

THE ACT. M.S. §§ 469.090 through 469.1081.

(Ord. 683, passed 10-20-09)

§ 34.02 ESTABLISHMENT.

An economic development authority is established which shall have all of the powers, duties and responsibilities of an economic development authority pursuant to M.S. §§ 469.090 through 469.1081. It shall be the role and responsibility of the Authority to carry out economic and industrial development and redevelopment within the North Saint Paul area pursuant to bylaws as may be adopted by the Authority. It shall confer with other city departments, and other public and private groups on matters relating to business and industrial development and periodically survey the area's industrial and commercial climate and report regularly to the Council.

(Ord. 683, passed 10-20-09)

§ 34.03 NAME.

The economic development authority created by the enabling resolution shall be known as the North Saint Paul Economic Development Authority.

(Ord. 683, passed 10-20-09)

§ 34.04 MEMBERS.

The Economic Development Authority shall consist of seven members of which one shall be the Mayor and at least one a City Councilmember. The Mayor shall present candidates for the Economic Development Authority to the City Council for consideration of approval. Candidates for the Economic Development Authority shall have an interest in advancing the business and economic climate of the city but need not be residents of the city.

(Ord. 683, passed 10-20-09)

§ 34.05 ADMINISTRATION.

(A) *Bylaws.* The Authority shall adopt bylaws and rules of procedure for administration of its affairs.

(B) *Officers.* The Authority shall elect a chair and a vice-chair on an annual basis. The City Manager or designee shall serve as the Executive Director; an ex officio member.

(C) *Professional service contracts.* The Authority may employ technical experts and professionals as deemed necessary. Their compensation and duties shall conform to city policy.

(D) *Duties and powers.* The officers shall have the duties and powers of their offices and other powers and duties as may be delegated by the Authority, the bylaws, and the Act. No action of the Authority may be in conflict with the city's current comprehensive plan or controls instituted to effectuate the plan.

(E) *Meetings*. The Authority shall meet quarterly and at such other times as necessary.

(Ord. 683, passed 10-20-09)

§ 34.06 MODIFICATION.

All modifications to the enabling resolution must be by ordinance and must be adopted after notice and Public Hearing conducted as required for the original adoption of the enabling resolution.

(Ord. 683, passed 10-20-09)

§ 34.07 REPORT TO COUNCIL.

The Authority shall submit a written report of its activities and recommendations for modification of the enabling resolution to the Council at least annually.

(Ord. 683, passed 10-20-09)

§ 34.08 EXECUTIVE DIRECTOR.

The city's Manager or designee shall attend all meetings of the Authority, shall serve as a consultant and advisor to the Authority and shall make quarterly reports to the Council.

(Ord. 683, passed 10-20-09)

§ 34.09 CONFLICTS OF INTEREST.

Except as authorized by M.S. § 471.88, a member, officer or employee of the Authority may not have a substantial conflict of interest, in projects undertaken by the Authority.

(Ord. 683, passed 10-20-09)

§ 34.10 BUDGET.

(A) *Fiscal budget*. The Executive Director shall prepare and submit to the Authority an annual budget to coincide with the city's budget process. The city shall establish a special fund designated as the "Economic Development Authority Fund." The Authority shall recommend a budget and submit it to the City Council for final approval. The Council shall appropriate to the fund money it deems necessary for Authority purposes. This shall constitute the budget of the Authority. All payments drawn on the account of the Authority shall be by written statement signed by two officers of the Authority, directing the City Manager to prepare and deliver payment. All expenditures shall be consistent with the operation of the Authority pursuant to this subchapter and Minnesota Statutes.

(B) *Levy*. Levy authority shall be consistent with M.S. § 69.033, Subd. 6. and rest with the City Council.

(C) *Audit*. All financial records of the Authority shall be prepared, audited, and filed with the city, the records being coordinated by the City Finance Department at the direction of the City Manager.

(Ord. 683, passed 10-20-09)

§ 34.11 SCHEDULE OF POWERS.

(A) *Development districts*. The Authority may create and define the boundaries of economic development districts and use the powers granted to carry out economic development in these districts.

(B) *Acquire property*. The Authority may acquire, by lease, purchase, devise or through condemnation proceedings, title in

property to create economic development in these districts. Property acquired, leased, owned, controlled, used or occupied by the Authority for any of the purposes of M.S. § 469.101, Subd. 2, is for public governmental and municipal purposes and is exempt from taxation by the state or its political subdivisions. The exemption from property taxes only applies while the Authority holds the property for its own purpose(s).

- (C) *Options.* The Authority may negotiate and acquire options to purchase, sell or lease property for the purpose of economic development.
- (D) *Contracts.* The Authority may make contracts for the purpose of economic development.
- (E) *Limited partnerships.* The Authority may become a limited partner in a partnership.
- (F) *Rights and easements.* The Authority may acquire rights or easements for a term of years or perpetually.
- (G) *Receive public property.* The Authority may accept land, money or other assistance, whether by gift, grant, loan or otherwise in any form from federal, state, local government, any agency of either or a local division of state government.
- (H) *Public facilities.* The Authority may operate, maintain a public parking facility, housing facility or other public facilities to promote economic development in the area.
- (I) *Other powers.* The Authority shall have such other powers as authorized as described in the Act.

(Ord. 683, passed 10-20-09)

§ 34.12 LIMIT OF POWERS.

- (A) *General obligation and revenue bonds.* The Authority may issue general obligation bonds or revenue bonds after receiving the approval and authorization by four-fifths vote of the Council and in accordance with the provisions of the Act.
- (B) *Comprehensive plan.* The official actions of the Authority must be consistent with the adopted comprehensive plan of the city, and any official controls implementing the comprehensive plan.

(Ord. 683, passed 10-20-09)

TITLE V: CITY ADMINISTRATION

Chapter

- 50. CITY EMPLOYEE PERSONNEL POLICIES**
- 51. EMERGENCY MANAGEMENT**
- 52. COMMUNITY SERVICES/ELECTIONS**
- 53. FIRE AND POLICE**
- 54. FINANCE**
- 55. SOLID WASTE, RECYCLING AND COMPOSTING**
- 56. SANITARY AND STORM SEWER SYSTEM UTILITIES**
- 57. WATER SERVICE UTILITY**
- 58. ELECTRIC SERVICE UTILITY**
- 59. PARKS AND RECREATION**
- 60. CRIMINAL HISTORY BACKGROUND CHECKS**

Section

50.01 City employee personnel policies

§ 50.01 CITY EMPLOYEE PERSONNEL POLICIES.

The City Manager is authorized to establish policies within the context of State and Federal Law and upon the advice and consent of the City Council. Such policies were established in January of 1999. An employee handbook was designed to answer questions pertaining to employment practices, responsibilities as an employee, and benefits received. The handbook is not a contract and does not constitute the terms of an employment contract. Information and provisions contained in the handbook may change from time to time, upon consent of the City Council and notification of employees.

CHAPTER 51: EMERGENCY MANAGEMENT

Section

51.01 Policy and purpose

51.02 Definitions

51.03 Establishment of emergency management organization

51.04 Powers and duties of Director

51.05 Local emergencies

51.06 Emergency regulations

51.07 Emergency management a government function

51.08 Participation in labor disputes or politics

51.99 Penalty

§ 51.01 POLICY AND PURPOSE.

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to insure that preparations of this city will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(A) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters.

(B) To provide for the exercise of necessary powers during emergencies and disasters.

(C) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions.

(D) To comply with the provisions of M.S. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

§ 51.02 DEFINITIONS.

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

DISASTER. A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

EMERGENCY. An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

EMERGENCY MANAGEMENT. The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, firefighting services, police services, emergency medical services, engineering, warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions. Emergency management includes those activities sometimes referred to as "civil defense" functions.

EMERGENCY MANAGEMENT FORCES. The total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

EMERGENCY MANAGEMENT ORGANIZATION. The staff responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

§ 51.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.

There is created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, called the Director. The Director shall be appointed by the Mayor with approval of the City Council for an indefinite term and may be removed by him or her at any time. The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the Mayor.

§ 51.04 POWERS AND DUTIES OF DIRECTOR.

(A) The Director, with the consent of the Mayor, shall represent the city on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the Council for its action. These arrangements shall be consistent with the State Emergency Plan.

(B) The Director shall make studies and surveys of the human resources, industries, resources, and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the Mayor.

(C) The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the Council for its approval. When the Council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.

(D) In accordance with the State and City Emergency Plan, the Director shall institute training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Plan when a disaster occurs.

(E) The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend services and facilities to the city's emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

(G) Consistent with the state emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by M.S. § 12.25, as it may be amended from time to time.

(H) The Director shall carry out all orders, rules, and regulations issued by the Governor with reference to emergency management.

(I) The Director shall prepare and submit reports on emergency preparedness activities when requested by the Mayor.

§ 51.05 LOCAL EMERGENCIES.

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the Council. Any order, or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Manager.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter- jurisdictional disaster plans, and may authorize aid and assistance thereunder.

(C) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

Penalty, see § 51.99

§ 51.06 EMERGENCY REGULATIONS.

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the Council, the Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Manager. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the City Manager's office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at other places in the affected area as the Council shall designate in the resolution. By resolution, the Council may modify or rescind a regulation.

(C) The Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.31, as it may be amended from time to time and notwithstanding any statutory or Charter provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time- consuming procedures and formalities prescribed by law

pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

Penalty, see § 51.99

§ 51.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.

All functions and activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, nor the right of any person to receive any benefits or compensation under any act of Congress.

§ 51.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.

§ 51.99 PENALTY.

Any person who violates any provision of this chapter or any regulation adopted thereunder relating to acts, omissions, or conduct other than official acts of city employees or officers is guilty of a misdemeanor.

CHAPTER 52: COMMUNITY SERVICES/ELECTIONS

Section

- 52.01 Regular election
- 52.02 Terms of office of Mayor
- 52.03 Terms of office of Council members
- 52.04 Community services

§ 52.01 REGULAR ELECTION.

The regular election of the city shall be held on the first Tuesday after the first Monday in November in every even numbered year.
(`89 Code, § 6.010)

§ 52.02 TERMS OF OFFICE OF MAYOR.

The term of office for Mayor shall be four years and until his or her successor is chosen and qualified.
(`89 Code, § 6.040)

Cross reference:

City Council, see Chapter 30

§ 52.03 TERM OF OFFICE OF COUNCIL MEMBERS.

The term of office for a Council member shall be four years and until their successors are chosen and qualified.

(`89 Code, § 6.050)

Cross reference:

City Council, see Chapter 30

§ 52.04 COMMUNITY SERVICES.

The Community Services Department was created to better serve the residents of the city. The offices of Fire Chief, Engineering, Inspections, Code Enforcement, Administration and Elections comprise this department. There is an appointed Director who reports directly to the City Manager.

Cross-reference:

City Officials, see Chapter 31

CHAPTER 53: FIRE AND POLICE

Section

Fire Department

- 53.01 Establishment
- 53.02 Personnel
- 53.03 Duties of Chief
- 53.04 Razing of buildings
- 53.05 Delegation of authority
- 53.06 Fire Code enforcement
- 53.07 Violations

Police Department

- 53.20 Police Civil Service Commission
- 53.21 Personnel
- 53.22 Issuing citations for violations of law

FIRE DEPARTMENT

§ 53.01 ESTABLISHMENT.

A Fire Department is established in and for the city to be known as the North St. Paul Fire Department.

(`89 Code, § 8.010)

§ 53.02 PERSONNEL.

The Fire Department shall consist of a Chief, and such other subordinate officers and members of such qualifications as the

Manager shall determine. Fire Department personnel shall receive such remuneration for their services as the Council shall authorize.

(`89 Code, § 8.020)

§ 53.03 DUTIES OF CHIEF.

(A) The Chief of the Fire Department shall have the immediate control over all subordinate officers and members.

(B) The Chief shall drill the Department until it functions in an efficient manner and shall draft rules for the government of the Department subject to the approval of the Manager.

(`89 Code, § 8.030)

§ 53.04 RAZING OF BUILDINGS.

It shall be the duty of the Fire Chief or officer in charge during any fire to pull down, raze or remove any structure, building or property in the vicinity of the fire as may be necessary to preserve property or to prevent the communication of fire to other property.

(`89 Code, § 8.040)

§ 53.05 DELEGATION OF AUTHORITY.

The Assistant Chiefs and other subordinate officers shall, in the respective order of their ranking, have the full powers of the Chief in his or her absence and in the absence of their immediate superior officer or officers.

(`89 Code, § 8.050)

§ 53.06 FIRE CODE ENFORCEMENT.

Buildings or structures in violation of any provisions of state or local laws shall be considered "Dangerous Buildings" and handled under Chapter 151. The Chief of the Fire Department, or representative authorized by the Chief, is authorized to enforce all state and local fire laws and is authorized to issue any citation or complaint necessary for said enforcement.

(`89 Code, § 8.070)

§ 53.07 VIOLATIONS.

Violations of state or local fire laws or regulations shall be a misdemeanor and shall be punished as provided in § 10.99. In addition to any criminal action the city may take, the city shall also have the authority to seek injunctive relief to abate the violations.

(`89 Code, § 8.080) Penalty, see § 10.99

POLICE DEPARTMENT

§ 53.20 POLICE CIVIL SERVICE COMMISSION.

There is established in and for the city a Police Civil Service Commission. The provisions of M.S. §§ 419.01 through 419.181, as it may be amended from time to time, providing for the powers and duties of the Commissions, are adopted and made a part of this chapter as if fully set forth herein.

(`89 Code, § 9.010)

§ 53.21 PERSONNEL.

The Police Department shall consist of a Chief and such other subordinate officers and members as determined by the manager. Qualifications for these positions shall be authorized by the Police Civil Service Commission.

(`89 Code, § 9.020)

§ 53.22 ISSUING CITATIONS FOR VIOLATIONS OF LAW.

The following non-police personnel are authorized to issue citations for violations of law occurring within the city limits and in their presence:

- (A) Building officials and designees;
- (B) Fire Chief and designees;
- (C) City Manager and designees;
- (D) Full or part-time employees of the city appointed by the City Manager, or designee, to enforce parking restrictions.

(`89 Code, § 9.030)

CHAPTER 54: FINANCE

Section

Reserved.

CHAPTER 55: SOLID WASTE, RECYCLING AND COMPOSTING

Section

Garbage and Recyclables Collection

- 55.01 Contract for garbage and recyclables collection
- 55.02 Definitions
- 55.03 Collection: city-contracted service
- 55.04 Collection: multi-unit dwellings, institutional, industrial, and from commercial establishments
- 55.05 Collection: source separated organic materials
- 55.06 Recycling collection
- 55.07 Maintenance of sanitary conditions
- 55.08 Fees
- 55.09 Solid waste haulers license

Backyard Composting

- 55.20 Purpose
- 55.21 Prohibition on disposal of organic waste in streets and sewers
- 55.22 Requirements for composting operations

55.23 Informational materials

55.24 Nuisance

55.25 Violations

GARBAGE AND RECYCLABLES COLLECTION

§ 55.01 CONTRACT FOR GARBAGE AND RECYCLABLES COLLECTION.

The City of North St. Paul, exercising its municipal power under Minnesota Statutes as they may be amended from time to time, shall provide organized collection of garbage and recyclables to all defined single-unit dwellings that are up to four-unit homes. The city may enter into an agreement with a private company to provide this service. The agreement shall set forth the duties and responsibilities of both the city and the contractor. The current agreement shall be on file in the City Clerk's office and shall be available for public inspection during normal business hours.

(Ord. 738, passed 8-18-2015)

§ 55.02 DEFINITIONS.

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

APPLIANCES. Items such as washers, dryers, refrigerators, freezers, air conditioners, dehumidifiers, humidifiers, stoves, ranges, hot water heaters, water softeners and other, similar large household items that require electricity and/or special processing under Minnesota laws, but does not include electronic waste.

BULKY WASTE. All large, bulky household materials which do not fit within a garbage cart, and include, but are not limited to carpeting and padding, mattresses, chairs, couches, tables, appliances and car parts including wheels, rims and tires.

COMMERCIAL ESTABLISHMENT. Properties classified generally as, including but not limited to, business, commercial, multi-unit dwelling, institutional and/or industrial or other defined in the city zoning code which generate garbage and recyclables and are typically serviced by a dumpster or roll-off box form of garbage container. Shall include any premises where a commercial enterprise of any kind is carried on, including but not limited to restaurants and clubs, churches and schools.

COMPOSTING. Minnesota Statutes states composting is the biological decomposition of organic matter. It is accomplished by mixing and piling in such a way as to promote aerobic or anaerobic decay or both. The process inhibits pathogens, viable weed seeds, and odors.

CONSTRUCTION AND DEMOLITION DEBRIS. Building materials, packaging, and other rubble resulting from construction, remodeling, repair, and demolition of buildings; roads and/or other facilities.

DESIGNATED RECYCLABLES. Are materials designated by the city as recyclable including mixed paper, glass bottles and jars, plastic food and beverage containers, metal food and beverage containers and household scrap metal. Other materials may be included as markets become available.

DUMPSTER. Commercial garbage container made of metal or durable plastic with a lid that can be serviced by a front-loading automated or rear-loading semi-automated garbage truck.

DWELLING. A building or one or more portions thereof occupied or intended to be occupied exclusively for residence purposes, but not including rooms in motels, hotels, nursing homes, boarding houses, nor trailers, tents, cabins, trailer coaches, or houseboats.

DWELLING, MULTI-UNIT HOUSING. A building or complex which provides more than four residential dwelling units with a kitchen or area for food preparation as part of a large building or complex, and which as part of the rental fee or association dues, provides refuse service for the entire group of households with dumpster service.

DWELLING, SINGLE-UNIT HOUSING. Shall include any single building of one to four with individual kitchen facilities for each. For additional dwelling unit definitions, see the city zoning code.

ELECTRONIC WASTE. Minnesota Statutes includes the following electronic waste items: television and computer monitors, computers, computer peripheral devices, fax machines, DVD players, video cassette recorders, other video display devices, cell phones and other small appliances with an electric cord.

GARBAGE. According to Minnesota Statutes mixed municipal solid waste is solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural waste, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste.

GARBAGE AND RECYCLING CONTAINERS: SINGLE-UNIT HOUSING. A non-leaking standard type wheeled garbage cart in approximately 32, 68, or 95 gallon sizes, which is fitted with handles and attached lids.

GARBAGE AND RECYCLING CONTAINERS: MULTI-UNIT HOUSING OR COMMERCIAL ESTABLISHMENT. Standard type wheeled garbage and recycling containers or dumpsters; dumpsters shall be a metal container.

HAULER. A licensed collector or transporter of garbage, recyclable materials, bulky waste, electronic waste, source-separated compostable materials or yard waste.

HOUSEHOLD HAZARDOUS WASTE. Waste generated from household activities that exhibits the characteristics of or that is listed as hazardous waste under agency rules that is generated, stored, or present in a household and includes items such as paint, fluorescent light bulbs, mercury thermometers, cleaning fluids, herbicides, pesticides, fertilizers and other waste as defined in Minnesota Statutes or regulations. Household hazardous waste does not include waste from commercial activities.

LEGAL HOLIDAYS. For the purposes of this chapter legal holidays shall be New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day.

MIXED MUNICIPAL SOLID WASTE. Garbage and other solid waste from residential, commercial and community activities that the generator of the waste aggregates for collection.

OCCUPANT. A person who resides or is present in a house at a given time.

ORGANIC WASTE. Yard waste and raw, uncooked food waste, except for meat, bones, whole eggs and dairy products. It also includes commercially available compost ingredients.

RECYCLING. The process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that does not cause the destruction of recyclable materials in a manner that precludes further use.

RESIDENT. Person owning or renting a residential property in the City of North Saint Paul.

SOLID WASTE. Includes garbage, recyclables, appliances, bulky waste, yard waste, litter and household hazardous waste.

SOURCE-SEPARATED ORGANIC MATERIALS. Shall have the meaning set forth in Minnesota Statutes and means materials that: (1) are separated at the source by waste generators for the purpose of preparing them for use as compost; (2) are collected separately from mixed municipal solid waste; and (3) are comprised of food waste, fish and animal waste, plant materials, diapers, sanitary products, and paper that is not recyclable. Source-separated compostable materials are separate and distinct from organic wastes and source separated wastes defined in §§ 55.20*et seq.*

TENANT. A person who occupies a commercial establishment, land or property rented from a landlord.

VECTORS OF DISEASE. Animals including, but not limited, to insects, mice, rats, squirrels, crows, flies and other vermin that are capable of carrying, transmitting and/or infecting humans with disease.

YARD WASTE. Shall include leaves, grass clippings, organic garden waste or shrub and small tree branches no larger than 1/4-inch diameter and similar non-woody plant materials generated at residences.

(Ord. 738, passed 8-18-2015)

§ 55.03 COLLECTION: CITY-CONTRACTED SERVICE.

(A) All garbage shall be kept in garbage containers that shall be water tight, rodent and vermin-proof and of sufficient size to contain all solid waste from one collection day until the next. Other types of containers such as oil drums, fiber drums, barrels,

cardboard boxes, and paper bags will not be acceptable as garbage containers.

(B) Only garbage shall be placed in the garbage container. Items prohibited from disposal with garbage in the containers include, but may not be limited to: designated recyclables, tree and shrub waste, other yard waste, construction and demolition debris, automotive parts or fluids, electronic waste, or household hazardous waste. The city may prohibit disposal of source separated organic materials in the garbage container at such time as a collection program for source separated organic materials is established.

(C) The resident is responsible for the appropriate use and safety of the garbage containers, including both the interior and exterior of the containers. The resident shall rinse or wash the interior of the container as needed, and shall keep the containers free of markings or graffiti.

(D) The City of North St. Paul shall contract with a recycling contractor to serve as the exclusive curbside collector of recyclable materials from single-unit up to four-unit dwellings. In such contract the city shall determine the schedule, materials and frequency of collection.

(E) Garbage, recycling and yard waste containers, on collection day, shall be placed on the curb along the public roadway or in front of the dwelling. In areas where alley collection is allowed, containers shall be placed at the alley line for collection or designated collection area for dwellings other than single family.

(F) Containers shall be placed properly at the curb for pick-up not earlier than 6:00 p.m. the day before scheduled collection, and removed from the curb not later than 6:00 a.m. the day after scheduled collection.

(G) It shall be the responsibility of every resident to notify the city at least one week in advance of starting or discontinuing garbage collection service.

(H) Each occupant, owner or tenant shall dispose of garbage which accumulates upon their property at least once a week or provided by city contract, unless given special permission. Every tenant, occupant, or owner of any single-unit dwelling unit shall use the garbage and recycling collection service as provided by the City of North St. Paul.

(Ord. 738, passed 8-18-2015)

§ 55.04 COLLECTION: MULTI-UNIT DWELLINGS, INSTITUTIONAL, INDUSTRIAL, AND FROM COMMERCIAL ESTABLISHMENTS.

(A) Every multi-unit building, or commercial establishment shall have garbage and recyclables collected by haulers licensed by the city and shall comply with this chapter. The owners of multi-unit dwellings, townhouses and townhouse associations, commercial establishments may opt-in to the city-contracted garbage and recycling collection service, at their application and with the city's approval.

(B) All solid waste containers exceeding 75 gallons in size and located on property used for purposes other than single-unit residential collection shall be a metal container. The dumpsters shall be of a capacity and sufficient in number to fully contain solid waste between collections, covered, and of an approved sanitary type with the proper attachments for lifting onto garbage trucks. The dumpsters shall be water-tight and rodent and vermin-proof.

(C) The owner of a multi-unit dwelling shall make recycling services available to the occupants of all dwelling units on the premise. The recyclables collection services shall be conveniently available on the premises. The recyclables collection service shall be for at least the designated recyclables collected in the city's residential recycling program.

(D) The owner of a multi-unit dwelling shall provide recycling educational information to new occupants of each dwelling unit and to all occupants on the property at least once each year. The educational information shall notify the occupants of the availability of collection services, describe the procedures required to prepare the designated recyclables for collection.

(E) Each owner of a multi-unit building shall prohibit the disposal of household hazardous waste, or other prohibited waste in garbage containers, and shall provide educational information to all residents in the building on the proper transportation and disposal of household hazardous waste.

(Ord. 738, passed 8-18-2015)

§ 55.05 COLLECTION: SOURCE SEPARATED ORGANIC MATERIALS.

The City of North St. Paul may contract with a licensee to serve as the exclusive collector of source separated organic materials for single-unit, multi-unit, institutional, industrial and/or commercial establishments. If the city initiates such separate collection, the following shall apply:

(A) The city shall determine the schedule, materials and frequency of collection.

(B) Every single-unit, multi-unit building, institutional, industrial or commercial establishment shall have source separated organic materials collected by haulers licensed by the city or under city contract.

(C) The owner of a multi-unit dwelling shall make source separated organic materials collection services available to the occupants of all dwelling units on the premise. The source separated organic materials collection services shall be conveniently available on the premises.

(D) The owner of a multi-unit dwelling shall provide source separated organic materials educational information to the occupants of each dwelling unit on the property at least once each year. The educational information shall notify the occupants of the availability of collection services, describe the procedures required to prepare the designated source separated organic materials for collection.

(Ord. 738, passed 8-18-2015)

§ 55.06 RECYCLING COLLECTION.

(A) The City of North St. Paul, exercising its municipal power under M.S. § 115A.94, as it may be amended from time to time, shall provide organized collection of recyclable materials to all single-unit through four-unit homes. The city may enter into an agreement with a private company to provide this service. The agreement shall set forth the duties and responsibilities of both the city and the contractor. The current agreement shall be on file at City Hall office and shall be available for public inspection during normal business hours.

(B) Recyclables collection service shall be for at least the designated recyclables collected in the city's residential recycling program.

(Ord. 738, passed 8-18-2015)

§ 55.07 MAINTENANCE OF SANITARY CONDITIONS.

Persons accumulating solid waste shall comply with the following requirements:

(A) No person shall place any solid waste in any street, alley, or other public place, or upon any private property whether owned by such person or not, unless it be in proper containers for collection, nor shall any person throw or deposit any solid waste in any stream or other body of water.

(B) No person shall cause, place, sweep or deposit any garbage or refuse in any manner that it may be carried or deposited by the elements off his or her property within the city.

(C) No person shall bury or burn any garbage or refuse in the city.

(D) The removal of wearing apparel, bedding, or other refuse from homes or places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the Public Health Officer.

(E) Persons may apply to the city for less than weekly service on a form provided by city. Permission may be granted for less than once per week garbage removal provided that sufficient removal is accomplished to prevent nuisance or unhealthful accumulations of garbage. Such permission will be withdrawn and weekly garbage removal required, if nuisance or unhealthful conditions exist.

(Ord. 738, passed 8-18-2015)

§ 55.08 FEES.

(A) The fees for city-contracted collection and disposal of garbage, bulky waste, recyclables and yard waste for all single-unit residential properties shall be determined by the city and set annually with the city fee schedule. The city shall render a statement thereof to each single-unit property on a monthly basis. All amounts due hereunder shall be payable to the city on the fifth day of the

month following the month in which the statement is presented.

(B) The city shall assess and levy in the same manner as other taxes, any unpaid garbage, bulky waste, recyclables and yard waste accounts against the property upon which the account has been accrued, and the same shall become a lien against the property against the property. The city reserves the right to charge interest and penalties fees as set in the city fee schedule to any unpaid garbage, bulky waste, recyclables and yard waste account.

(Ord. 738, passed 8-18-2015)

§ 55.09 SOLID WASTE HAULERS LICENSE.

(A) No person, company or corporation shall collect solid waste without first obtaining the appropriate license issued by the City of North St. Paul.

(B) Before a license is issued, the applicant shall file with the City Manager evidence that the applicant has in effect insurance policies, listing the city as an additional insured, as follows:

(1) General liability, including coverage for bodily injury, wrongful death, and property damage, for the hauler's business in the following amounts:

(a) \$1,000,000 per person.

(b) \$3,000,000 per occurrence.

(2) Auto liability for all vehicles in the following amounts:

(a) Property damage or wrongful death in the following amounts:

(i) \$1,000,000 per person.

(ii) \$3,000,000 per occurrence.

(b) Bodily injury in the following amounts:

(i) \$1,000,000 per person.

(ii) \$5,000,000 per occurrence.

(3) Workers Compensation Insurance as specified by the Minnesota Department of Occupational Health and Safety and federal law.

(C) The number of solid waste haulers licenses under this section shall be capped at the number in place on January 1, 2015; any decrease in the number of licenses that occurs due to attrition will decrease the number of available licenses.

(D) All licensed haulers who collect from single unit or multi-unit residential accounts shall keep accurate records of all garbage, recyclables, yard waste, electronic items, and bulky waste collected, and submit the information required by the city on a quarterly basis.

(1) Recycling haulers shall provide proof of disposal of recycling products to beneficial end markets.

(2) All recycling haulers shall report to the city on a quarterly basis those residential properties that do not participate in the recycling program.

(3) When the city initiates requirements for source separated materials collection, all licensed haulers who collect properties in the city shall keep accurate records of all source separated organic materials collected and submit the information required by the city on a quarterly basis.

(E) Licensees may collect materials only during the hours between 7:00 a.m. and 7:00 p.m.

(F) A licensee's failure to comply with the provisions of the City of North St. Paul's code, state laws, or any of the conditions attached to the license shall be grounds for license revocation, without refund of license fee.

(G) Licensees shall use equipment so constructed that materials will not spill out during transportation. The equipment shall be kept clean and shall not be allowed to stand in any street or public place longer than is necessary to collect materials. The equipment shall

not leak fuel, oil, or hydraulic fluid while in normal operation in the city.

(Ord. 738, passed 8-18-2015)

BACKYARD COMPOSTING

§ 55.20 PURPOSE.

This ordinance is adopted for the following purposes:

- (A) To protect the public health, safety, comfort, convenience, and the general welfare of the citizens of the city.
- (B) To establish powers, the duties, rules, regulations, and standards for the location and operation of source separated organic waste composting containers at residential and commercial properties in the city.
- (C) To promote a program of waste reduction through source separation of organic from mixed municipal solid waste.
- (D) To provide for the administration and enforcement of this subchapter.

(Ord. 738, passed 8-18-2015)

§ 55.21 PROHIBITION ON DISPOSAL OF ORGANIC WASTE IN STREETS AND SEWERS.

No person shall rake or deposit organic waste or mixed municipal solid waste on or into public or private streets, storm sewers, drainage ditches, water retention basin, streams or lakes.

(Ord. 738, passed 8-18-2015)

§ 55.22 REQUIREMENTS FOR COMPOSTING OPERATIONS.

Composting of source separated organic material generated at single-unit, multi-unit and institutional properties is permitted on-site at such properties provided that all of the following requirements are met:

(A) Location.

- (1) On-site composting containers shall be located and designed so that seepage from the compost will not run off into public or private streets, storm sewers, drainage ditches, water retention basins, streams or lakes.
- (2) Location on property. The on- site composting container(s) shall be located in the rear yard no closer than three feet from any rear or side property line nor closer than 20 feet to any habitable building other than the resident's own home.
- (3) No composting container may be placed within 20 feet of any body of water or area designated as flood plain, shoreland or state protected wetlands.

(B) *Compost materials.* Only grass clippings, leaves, weeds that have not gone to seed, nondiseased plants, trimmings less than ¼ inch in diameter, straw, sawdust, wood ashes, fruit or vegetable scraps, coffee grounds, eggshells, and commercially available compost ingredients may be placed in the compost container. Meat, bones, fat oils, grease, dairy products, feces, plastics, glass, metal, or synthetic fibers shall not be placed in the compost container(s).

(C) *Composting container.* All composting must occur in a container constructed of wood, wire mesh, or concrete block, or a combination thereof, or in a commercially available compost bin designed for composting organic waste.

(D) *Composting container size.* Composting shall be conducted within an enclosed container not to exceed five-feet by five-feet by five- feet. Containers shall be of a durable material; including, but not, limited to, sturdy woven wire fencing, rot-resistant wood, or a commercially purchased composting unit which will provide for adequate aeration. Containers shall be constructed and maintained in a structurally sound manner.

(E) *Herbicide/pesticide use.* No herbicides or pesticides shall be added to a composting container.

- (F) *Maintenance.* Compost materials shall be layered, aerated, moistened, turned, managed and covered during inclement weather to promote effective decomposition of the materials in a safe, secure and sanitary manner that do not produce nuisance odors.
- (G) *Compost use.* When the composting process is finished and the compost resembles a soil- like humus or mulch material, it shall be used as a soil amendment at the property from which the compost was generated.

(Ord. 738, passed 8-18-2015)

§ 55.23 INFORMATIONAL MATERIALS.

The city shall prepare and disseminate informational materials to assist persons wishing to conduct source separated organic material composting in an efficient and odor free manner and shall offer technical assistance to those persons on the proper operation and maintenance of a composting operation. Materials are to contain examples of acceptable composting containers.

(Ord. 738, passed 8-18-2015)

§ 55.24 NUISANCE.

A compost container must not be established or maintained in a manner such that it creates a harborage for vectors of disease, or an odorous or other nuisance to adjacent properties and any composting shall be suspended or terminated if at any time the city determines a nuisance exists or that conditions exist constituting a fire hazard or health hazard, or if there is a threat to surface or groundwater from run-off or leaching.

(Ord. 738, passed 8-18-2015)

§ 55.25 VIOLATIONS.

It is unlawful to conduct composting operations in violation of the requirements of this subchapter. In addition to the enforcement methods and penalties available under the City Code, such violations may be abated as a public nuisance.

(Ord. 738, passed 8-18-2015)

CHAPTER 56: SANITARY AND STORM SEWER SYSTEM UTILITIES

Section

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GENERAL PROVISIONS

§ 56.01 DEFINITIONS.

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

ACCIDENTAL DISCHARGE. A discharge prohibited by this chapter which occurs by chance and without planning or thought prior to occurrence.

BUILDING DRAIN. That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil waste and other drainage pipes inside the walls of any building and conveys the same to the building storm sewer.

BUILDING SEWER. That part of the horizontal portion of the building drainage system extending from the building drain to its connection with the septic tank carrying the sewage of but one building.

ILLICIT DISCHARGE. Any direct or indirect non-stormwater discharge to the municipal separate storm sewer system, except as exempted in § 56.33.

ILLEGAL CONNECTION. Either of the following:

(1) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A sewage disposal system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated, the word **SYSTEM** as it appears in this chapter means **INDIVIDUAL SEWAGE DISPOSAL SYSTEM**.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the Minnesota Pollution Control Agency (MPCA) under authority delegated pursuant to 33 USC § 1342(b) 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.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A conveyance or system of conveyances designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, municipal streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

- (1) Owned or maintained by North St. Paul;
- (2) Not a combined sewer; and
- (3) Not part of a Publicly-Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

NON-STORMWATER DISCHARGE. Any discharge to the storm sewer system not composed entirely of stormwater.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: chlorine, paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

RAW SEWAGE. Sewage which has not been subjected to any treatment process.

SEWAGE. Any water-carried domestic waste, exclusive of footing and roof drainage, of any residence, industry or commercial establishment, whether treated or untreated, and includes the liquid wastes produced by bathing, laundry and culinary operations and from toilets and floor drains.

STORMWATER RUNOFF or STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STRUCTURAL STORMWATER CONTROL. A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

(`89 Code, § 162.020) (Ord. 657, passed 12-20-2005; Am. Ord. 735, passed 4-21-2015)

§ 56.02 SUPERVISION OF SYSTEM.

The Superintendent of the Public Works Department shall have control of the drainage and sanitary and storm sewer system and all drains and sewers now or hereafter built or authorized by the city and the building, repair and maintenance thereof and connections therewith.

(`89 Code, § 160.040) (Am. Ord. 657, passed 12-20-2005)

§ 56.03 RATES AND CHARGES.

The Council shall by ordinance establish rates and charges for residential, commercial, industrial and other connections now existing or hereafter made to the public sanitary and storm sewer system of the city.

(`89 Code, § 160.010) (Am. Ord. 657, passed 12-20-2005)

§ 56.04 SURFACE WATER MANAGEMENT UTILITY.

(A) Surface water management shall be operated as a public utility pursuant to M.S. §444.075, as it may be amended from time to time.

(`89 Code, § 15.010)

(B) *Surface water management fees.* The City Council shall have the authority to prescribe by ordinance the rates to be charged to all properties within the city who contribute surface water to the storm sewer system and to exempt property from such fees and to prescribe the date of billing and payment, a discount for payment with a prescribed period and/or penalty for failure to pay within such period and such further rules and regulations relative to the use and operation of such storm sewer system as it may deem necessary from time to time.

(`89 Code, § 15.020)

(C) *Surface Water Management Fund.* A separate fund shall be maintained for surface water management fees and expenditures.

(`89 Code, § 15.030) (Ord. 657, passed 12-20-2005)

§ 56.05 BILLING.

All sanitary sewer and surface water management fee charges shall be collected with and as a part of the city utility bills, but shall be separately stated thereon.

(`89 Code, § 160.020)

§ 56.06 COLLECTION.

The water service to any premises may be disconnected upon failure to pay the sanitary sewer and surface water management charges for the premises. Water service shall not be resumed until all due sanitary sewer and water bills plus a connection charge are paid. The sanitary sewer and surface water management charges shall constitute an indebtedness of the owner of said premises as well as the occupant thereof who receives sanitary sewer service, and any claim for unpaid rates or charges which have been properly billed to the occupant of the premises as part of the utility bill for water services may be thereafter collected in a civil action brought against the occupant or the owner of said premises, or both.

(`89 Code, § 160.030)

PERMITS

§ 56.15 PERMIT REQUIRED TO CONNECT SEWERS OR DRAINS.

No person shall build, repair or extend any sanitary or storm sewer or drain or connect any sanitary sewer or storm sewer or drain to any public sanitary or storm sewer or drain without obtaining a permit. Permits shall be issued only to persons licensed under Chapter 110.

(`89 Code, § 160.050) Penalty, see § 10.99

Cross reference:

General licensing and regulations, see Chapter 110

§ 56.16 SEWER ASSESSMENTS MUST BE PAID.

No permit shall be issued unless all assessments or connection charges for sanitary sewer construction or such installments thereof as shall be due at the time such connection is made against the property to be drained shall be paid.

('89 Code, § 160.060)

§ 56.17 APPLICATION AND ISSUANCE.

(A) Application for a permit shall be filed with the City Manager or designee by the person who shall perform the work. The form of the application shall be determined by the Manager. A plan shall be submitted with the application showing the proposed drain from its connection to the public sanitary sewer to its terminus within the building involved. The location of all branches, traps and fixtures connected therewith shall be shown. Such drawings shall be kept by the city as a permanent record.

(B) If the proposed sewer complies with the provisions of the code and is satisfactory to the Manager, the Manager shall issue a permit.

('89 Code, § 160.070)

§ 56.18 PERMIT FEE.

Permit fees issued under this chapter shall be as established by Council ordinance.

('89 Code, § 160.080)

REQUIREMENTS

§ 56.30 CONSTRUCTION REQUIREMENTS.

All connections with the public sanitary or storm sewer shall be made with such materials as are satisfactory to the State Code. No sanitary or storm sewer pipe connecting with any public sanitary or storm sewer shall have a fall of less than one-inch vertical to one-foot horizontal. Where sewer and water connections to the city systems are laid in the same trench, the sewer connection shall be of P.V.C. (plastic) of a type approved by the Council.

('89 Code, § 160.090) (Am. Ord. 657, passed 12-20-2005)

§ 56.31 CONSTRUCTION INSPECTION.

All pipe shall be inspected by the Manager or designee before it is laid and be subject to approval. After any connection has been laid from a public sanitary or storm sewer to the building line, the pipe shall in no instance be covered until the same has been duly inspected and approved.

('89 Code, § 160.100)

§ 56.32 SEPARATE CONNECTIONS.

Every building shall be separately and independently connected with the public sanitary or storm sewers and drained through one connection for each.

('89 Code, § 160.120) (Am. Ord. 657, passed 12-20-2005)

§ 56.33 PROHIBITION OF ILLICIT DISCHARGES.

(A) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the municipal separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater.

(B) The following discharges are exempt from the prohibition provision above:

(1) Water line flushing performed by a government agency, 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, natural riparian habitat or wetland flows, and any other water source not containing pollutants;

(2) Discharges or flows from fire fighting, and other discharges specified in writing by North St. Paul as being necessary to protect public health and safety;

(3) The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the MPCA and 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 municipal separate storm sewer system.

(Ord. 657, passed 12-20-2005)

§ 56.34 PROHIBITION OF ILLEGAL CONNECTIONS.

The construction, connection, use, maintenance or continued existence of any illegal connection to the municipal separate storm sewer system is prohibited.

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

(B) A person violates this chapter if the person connects a line conveying sewage to the municipal separate storm sewer system, or allows such a connection to continue.

(C) Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of North St. Paul.

(D) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the North St. Paul requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to North St. Paul.

(Ord. 657, passed 12-20-2005)

§ 56.35 OBSTRUCTION PROHIBITED.

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

('89 Code, § 160.130)

§ 56.36 CERTAIN USES PROHIBITED.

The following substances shall not be discharged into any public sanitary sewer:

(A) Steam exhaust or blow off;

(B) No persons(s) shall make any connection from roof down spouts, sump pumps, foundation drains, area drains, cistern overflows, swimming pools or other sources of surface runoff or ground water to a building sanitary sewer or indirectly to the city's sanitary and storm sewer system. Dwellings and other buildings and structures which require a sump pump system to discharge excess water because of the infiltration of water into basements, crawl spaces and the like shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary and storm 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, is connected to the city storm sewer or discharges through the curb and gutter to the street. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge, and if connected to the city storm sewer line shall include a check valve:

(1) Every person owning improved real estate in the city shall allow an employee of the city of their designated representative to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary and storm sewer system. Any person refusing to allow their property to be inspected within 14 days of the date city employee(s) or their designated representatives are denied admittance to the property shall immediately become subject to the surcharge hereinafter provided for. Any property owner whose property is found in violation of this portion of this chapter shall make the necessary changes to comply with this chapter and shall furnish proof of those changes to the city;

(2) If the city has reason to suspect that an illegal connection may exist in a premises, the property owner will receive written notice to comply with the provisions of this chapter. Should a property certified in compliance with this chapter later be found to have reconnected a roof drain, sump pump or any other form of natural precipitation to the sanitary and storm sewer system, the property owner will be subject to the surcharge for all months between the last two inspections;

(3) A surcharge of \$100 per month is imposed and added to every sanitary sewer billing mailed on and after September 30, 1997, to each property owner not in compliance with this chapter. The surcharge shall be added every month until the property is in compliance with this chapter. 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 correct the violation and certify the costs of connection as an assessment against the property on which the connection is made;

(4) The Council may, by resolution, provide for waivers for hardships from the requirements of this section;

(C) Waste containing any product not allowed by Metropolitan Council Environmental Services;

(D) Refuse from butcher shops, rendering establishments, packing houses and other industrial establishments. Such refuse must be caught by some form of catch basin or grated slop basin;

(E) Refuse, solid or liquid, of any character, quality or nature that will unreasonably interfere with the ordinary treatment processes of any sewage treatment plant used by the city.

('89 Code, § 160.140) (Am. Ord. 657, passed 12-20-2005) Penalty, see § 10.99

§ 56.37 INSPECTION AND REPAIR OF CONNECTING DRAINS.

The Manager, or designee, shall have the right to enter upon any commercial or industrial premises at any reasonable hour to inspect the sewers and drains and traps and fixtures connected therewith. If it shall be found from such inspection or otherwise that the provisions of this code are not being complied with or that any part of the drainage system is in need of clearing out or repairs, a written notice shall be served as soon as possible upon the owner, the occupant and the person in charge of the premises specifying the work necessary to be done to make the sanitary and storm sewer system comply with this code or to put it in good workable condition. The notice shall specify such 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 shall be the duty of every person served with such a notice to comply therewith. The city may cause the work to be done at the expense of the person who served, if the defects are not remedied within the time stated in the notice.

('89 Code, § 160.150) (Am. Ord. 657, passed 12-20-2005)

§ 56.38 NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS.

(A) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into

stormwater, the municipal separate storm sewer system or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

(B) Said person shall notify the authorized enforcement agency in person or by phone, facsimile or in person no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to North St. Paul within three business days of the phone or in person 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. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

(C) In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.

(D) Failure to provide notification of a release as provided above is a violation of this chapter.

(Ord. 657, passed 12-20-2005)

§ 56.39 UTILITIES ALONG BORDERLINE STREETS.

(A) This section shall provide standards, establish uniform practices and implement cooperative administration between the cities of Maplewood and North St. Paul in all matters pertaining to sewers and other utilities lying upon streets located along their continuous common borderlines.

(B) Sanitary sewers shall be installed on the centerline of borderline streets, and the service therefrom shall be available to properties in both municipalities. Water and gas lines shall likewise be installed in such a manner as to provide service to properties in both municipalities.

(C) All plans adopted for any improvement within the dedicated right-of-way of any borderline street common to both municipalities shall be subject to approval of the engineering department of both municipalities.

(D) Whenever any improvement can be jointly undertaken by both municipalities, such procedure will be followed so that all benefitted property can be assessed. If the improvement must be done by one city instead of both, the benefit to property in the adjoining city which cannot be assessed by the city which has undertaken the improvement will be subject to connection fees in an amount equal to what the original assessment would have been had the property been subject to assessment, provided that as to street construction no such charge as a connection charge shall apply. Whenever property in one municipality is subject to a connection charge by the other municipality, as hereinbefore provided, the municipality in which such property is located shall not issue a building permit or other privilege to the owner of said property without first notifying the other municipality. Failure to give such notice shall render the municipality in which the property is located subject to and liable for payment of such connection charge to the other municipality if the property owner fails to pay same.

(E) All users of utilities shall pay service charges for the use thereof to the municipality which maintains the utility lines; provided that existing users of a sanitary sewer in North St. Paul, whose property is located in North St. Paul, shall pay no greater charge for sewer service than what the City of North St. Paul charges its resident sanitary sewer users. It is intended that **SERVICE CHARGE**, as used in the preceding sentence, means the total of the annual maintenance charge payable to the Metropolitan Council, the annual service charge payable to the Metropolitan Council and the local annual maintenance charge imposed by North St. Paul.

(F) Storm sewer facilities for area drainage affecting or involving borderline streets shall be subject to approval by both municipalities. The cost of such storm sewers shall be shared by both municipalities. The basis upon which the costs of such storm sewers shall be distributed and shared between these municipalities shall be proportional to the amount of square footage of the respective drainage areas lying within the separate municipalities.

(`89 Code, § 160.160)

§ 56.40 INDUSTRIAL USER STRENGTH CHARGE.

(A) There is approved, adopted and established, in addition to the sewer charge based upon the volume of discharge, a sewer charge upon each person, company or corporation receiving waste treatment services within or served by the city, based upon strength of industrial waste discharged into the sanitary and storm sewer system of the city.

(B) The provisions of the current resolution adopted by the Metropolitan Council governing board, which provides for the establishment of a formula to determine pollution qualities and quantities of the sewage used by the industrial user in excess of an annual average base and the proportionate costs of operation and maintenance of waste treatment services provided by said Council, are incorporated in and made a part of this chapter as completely as if set out here in full.

(C) The strength charge established by division (A) of this section shall be paid by each industrial user receiving waste treatment services and subject thereto before the twentieth day next succeeding the date of billing thereof to such user by or on behalf of the city, and such payment thereof shall be deemed to be delinquent if not so paid to the billing entity before such date. Furthermore, if such payment is not paid before such date, an industrial user shall pay interest per month on the unpaid balance due at the highest rate allowed by law.

(D) If payment of the strength charge established by division (A) of this section is not paid before the sixtieth day next succeeding the date of billing thereof to the industrial user by or on behalf of the city, the delinquent sewer strength charge, plus accrued interest established pursuant to division (C) of this section, shall be deemed to be a charge against the owner, lessee and occupant of the property served, and the city shall certify such unpaid delinquent balance to the County Auditor, with taxes against the property served for collection as other taxes are collected; provided, however, that such certification shall not preclude the city from recovery of such delinquent sewer strength charge and interest thereon under any other available remedy.

(`89 Code, § 160.150) (Am. Ord. 657, passed 12-20-2005)

INDIVIDUAL SANITARY AND STORM SEWER SYSTEM

§ 56.50 OBJECTIVES.

The main objective of the city is to eliminate all individual sewer systems as soon as possible. The objectives of this chapter are to provide adequate and safe methods of sewage disposal and to prevent the contamination of any existing or future sewage disposal system.

(`89 Code, § 162.010)

§ 56.51 MINNESOTA CODE ADOPTED.

The provisions of Minn. Rules Chapter 7080, Individual Sewage Treatment Systems Program, as they may be amended from time to time, are adopted by reference. The City Manager shall mark one copy of these Rules as the official copy and file it in his or her office for use and examination.

(`89 Code, § 162.030)

§ 56.52 PERMIT REQUIRED; APPLICATION.

(A) No person shall install, alter, repair or extend any individual sewage disposal system in the city if connection to the city sewer service is available. If connection to the city sanitary and storm sewer system is unavailable, no person shall install, repair or extend any individual sewage disposal system in the city without first obtaining a permit therefor from the engineer for the specific installation, alteration, repair or extension. At the time of applying for said permit, a fee to be established by Council resolution shall be paid. The permits shall be valid for a period of six months from date of issue. Application for a permit shall be made in writing upon printed blanks or forms furnished by the City Manager and shall be signed by the applicant.

(B) Each application for a permit shall have thereon the correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place, and each application for a permit shall be accompanied by a plot plan of the land showing the location of any proposed or existing building located on the property with respect to the boundary lines of the property and complete plans of the proposed system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this chapter. A complete plan shall include the location, size and design of all parts of the system to be installed, altered, repaired or extended. The application shall also show the present or proposed location of water supply facilities and water supply piping and the name of the person who is to install the system and shall provide such further information as may be required by the Council.

(C) If improvements to an individual sewage disposal system, to the lot on which the system lies, to the structures which contribute waste to the system or any other activity requiring a permit, variance or other review by the city are required or proposed, arrangements must be made to connect with the city sanitary and storm sewer system, if available, in accordance with this chapter.

(`89 Code, § 162.040) (Am. Ord. 657, passed 12-20-2005) Penalty, see § 10.99

§ 56.53 MAINTENANCE.

(A) At least once a year the owner of any septic tank shall measure or arrange for measurement of the depth of sludge and scum in such septic tank and be able to provide written documentation that the inspection was made. When, as a result of such measurement, the top of the sludge layer in the tank or any compartment of the tank is found to be less than 12 inches below the bottom of the outlet baffle or submerged pipe, or if the bottom of the scum layer is less than three inches above the bottom of the septic tank outlet baffle or submerged pipe, the owner shall arrange for the removal and sanitary disposal of sludge and scum from the tank, provided that such requirement for measuring shall be waived for any septic tank which is cleaned as indicated at least once each calendar year.

(B) At least once each year the owner of the septic system equipped with a distribution box shall arrange for the opening of the distribution box and removal of any settled solids therein. Such material shall be disposed of to the septic tank or by other means acceptable to the Council.

(C) At least once between May 1 and June 30 of each year, the depth of liquid in each seepage pit shall be measured. When, as a result of such measurement it is found that the liquid level in the pit is less than one foot below the inlet, a second measurement shall be made eight to 12 hours after the first measurement, during which time no liquid shall be discharged to the seepage pit. If, as a result of the second measurement, it is found that the liquid level in the pit has not lowered at least two feet during the indicated period of time, either arrangements must be made to connect with the city sanitary and storm sewer system in accordance with this chapter or an additional seepage pit or other acceptable soil absorption system shall be provided if connection with the city sanitary and storm sewer system is unavailable.

(`89 Code, § 162.050) (Am. Ord. 657, passed 12-20-2005)

§ 56.54 ENFORCEMENT.

(A) *Notice of violation.* Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the city 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.

If abatement of a violation and/or restoration of affected property is required, the written notice shall set forth a deadline within which such remediation or restoration must be completed. Said written 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.

(B) *Appeal of notice of violation.* Any person receiving a written notice of violation may appeal the determination of the authorized enforcement agency. A written notice of appeal must be received within 15 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 30 days from the date of receipt of the written notice of appeal. The decision of the municipal authority or their designee shall be final.

(C) *Enforcement measures after appeal.* If the violation has not been corrected pursuant to the requirements set forth in the written notice of violation, or, in the event of a written 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.

(D) *Cost of abatement of the violation.* Within 30 days after abatement of the violation, the owner of the property will receive written notification 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 or by the expiration of the time in which to file an appeal, 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.

(E) *Injunctive relief.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, 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.

(F) *Compensatory action.* In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(G) *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 chapter 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.

(H) *Criminal prosecution.* Any person that has violated or continues to violate this chapter 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.

(I) *Remedies not exclusive.* The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. The authorized enforcement agency may recover all attorney's fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(Ord. 735, passed 4-21-2015)

CHAPTER 57: WATER SERVICE UTILITY

Section

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GENERAL PROVISIONS

§ 57.01 SUPERVISION OF SYSTEM.

The Superintendent of the Public Works Department shall have general supervision and control of all public water mains and connections thereto, and no connections shall be to said system without a written permit from the Superintendent or the Council, pursuant to the rules and regulations adopted by the Council.

('89 Code, § 161.020)

§ 57.02 RATES AND CHARGES.

The Council shall by ordinance establish rates and charges for residential, commercial, industrial and other connections now existing or hereafter made to the public water system of the city.

('89 Code, § 161.020)

§ 57.03 APPLICATION FOR SERVICE.

(A) Application for water service must state fully and truly the purpose for which the same is to be used, together with the proper legal description of the property and the street and official house number of the premises to be supplied. The application must answer, without concealment, all questions put to them relating to the use of water. Applications and all information furnished shall be in

affidavit form when required by the Water Department.

(B) The applicant must distinctly state and mark on the sketch made a part of the application the point on the property line where the service is to enter the premises. No service cock shall be installed under concrete walks, steps or other permanent structures, either constructed or contemplated, between the property line and the buildings to be supplied. The point where the service is to enter the property must be distinctly marked by stake by the owner or agent before the service will be installed and must be in the location designated in the application.

(C) If connection to the city water supply system will replace an individual water supply system, the individual water supply system must be abandoned in accordance with the practices approved by Ramsey County and the Minnesota Health Department.

(`89 Code, § 161.030)

§ 57.04 WATER DEPARTMENT SERVICES.

The Water Department is authorized to render special service in connection with the furnishing of water, repairing water meters damaged by frost and other similar services pursuant to rules and regulations, prices and terms determined from time to time by the Council. Charges for such services shall be a continuing lien, until paid, upon the property served.

(`89 Code, § 161.040)

§ 57.05 SERVICE CONNECTION SPECIFICATIONS AND REPAIRS.

(A) The stop cock or corporation cock at the main and the curb cock at the sidewalk or curb shall be standard bronze. The curb cock shall have a cast iron box or cover. The pipe between the stop cocks at the main and the sidewalk shall be of approved copper or alloy pipe. Where the sewer and water connections are laid in the same trench, the water connection must be of copper pipe of a quality approved by the Council and the sewer connection of cast iron pipe or tubing approved by the Council.

(B) Sewer and water service from a building to the connection at the main are owned by the property owners and they are responsible for all repairs and maintenance except for the operation of the curbstop.

(`89 Code, § 161.050)

REGULATIONS; REQUIREMENTS

§ 57.20 TAMPERING WITH STOP COCKS.

No person shall tamper or interfere with the stop cocks at the main and sidewalk or with the box and cover.

(`89 Code, § 161.060) Penalty, see § 10.99

§ 57.21 DETERMINATION AND PAYMENT OF COSTS.

Where rates are fixed or cost of water services of any kind are estimated, payment must be made at the time the application is submitted and before the service is installed. No water will be turned on until all charges against the premises are paid, including water used for building purposes, except by special arrangement with the Council.

(`89 Code, § 161.070)

§ 57.22 WATER ASSESSMENT MUST BE PAID.

No building permit shall be issued unless all assessments or connection charges or such installments thereof as shall be due are paid in full or up to date.

(`89 Code, § 161.080)

§ 57.23 INSTALLATION OF LARGE SERVICE CONNECTIONS.

Service connections two inches or larger will be installed only after the application has been approved by the Water Department and the estimated cost of same has been paid.

(`89 Code, § 161.090)

§ 57.24 METERS.

(A) A sealed meter with a remote reader must be installed on all services laid and put in service. All meters installed on services will be furnished, sealed by and remain the property of the city. The supply of water through each separate service must be recorded by one meter only, for which one account will be rendered by the Water Department. If additional or auxiliary meters are desired for recording the subdivision of such supply, they must be furnished and set at the expense of the owner or consumer, and he or she must assume all responsibilities for reading and maintaining the same.

(B) Meters must at all times be easily accessible so that they may be examined, serviced and read by the employees of the Water Department. They must not be exposed to danger from frost or contamination and must be placed adjacent to a floor drain and not in a crawl space or under a stair well. No person shall cover or obstruct any water meter, either permanently or temporarily. The owner shall be held responsible for the intactness of the meter seals.

(C) If meters are damaged by freezing, hot water or other causes, either by carelessness or neglect of the owner or occupants of the premises or their agents, the owners of the premises must pay for the repairs of such damage. The cost of ordinary maintenance and repairs will be born by the Water Department. In case of breakage, stoppage or other irregularity in the meter, the owner or consumer shall notify the Water Department immediately, and any necessary repairs will be made by the Department.

(D) In case of the failure of the meter to register, the bill for the current period will be determined by averaging the bills of the customer for like periods if possible.

(E) The repair and disconnection of all meters shall be performed only by employees of the Water Department.

(`89 Code, § 161.100)

§ 57.25 METER TESTING AND ADJUSTMENT.

(A) At the written request of the owner or consumer, the Water Department will test the meter supplying the premises. A deposit to be set by Council ordinance will be required before the meter is disconnected, which sum will not be refunded if the meter is found to be registering within 4%; otherwise the deposit will be returned to the party making the same. The owner or consumer can, if desired, be present at the time the test is made. The result of the test will be reported to the owner or consumer in every case.

(B) If the testing of the meter shows that it fails to register correctly within 4%, the charge to the consumer will be adjusted accordingly as the registration varies from 100% and such adjustment shall apply to the current period only, unless it is apparent to the Council that a previous period's consumption has also been affected by the same incorrect registration. When it is impracticable to make adjustment as indicated above, the charge shall be equitably adjusted by the Council. All adjustments for charges for water shall be made by ordinance of the Council.

(`89 Code, § 161.110)

§ 57.26 AUTHORIZATION REQUIRED FOR CERTAIN ACTS.

Only persons authorized by a permit shall turn on or shut off the water supply at any stop cock at the main or at the curb or allow any person in his or her employ so to do, nor shall he or she have in his or her possession any tool or instrument for that purpose. Only persons authorized by a permit will be allowed to tap any main or do any excavation or any street work in connection with the laying, installation, extending or repairing of any water service, water pipe or water appurtenances without the permission of the Water Department.

(`89 Code, § 161.120)

§ 57.27 RESALE.

No consumer, without obtaining the written consent in advance of the Water Department, shall furnish water to any other person or property or permit any other person to take it himself or herself.

(`89 Code, § 161.130)

§ 57.28 SEPARATE SERVICES.

Every separate building supplied with water shall have its own separate service connection directly with the main, except private garages and barns. If more than one tenant is supplied by a street service, the property owner must apportion the charge to each tenant, if that person so desires. The Water Department will not apportion such charges.

(`89 Code, § 161.140)

§ 57.29 WASTE OF WATER.

No person shall waste water by permitting it to run through a faucet or fixture to prevent it from freezing or by permitting water to run longer than is necessary in its proper use. The Water Department is authorized and required to restrain and prevent all wastage of water.

(`89 Code, § 161.150)

§ 57.30 PAYMENT DUE WITHOUT BILL.

Failure of a customer or owner to receive a bill for current water charges will not entitle the owner or customer to a remission of any penalty for failure to pay the same promptly.

(`89 Code, § 161.160)

§ 57.31 ACCESS TO PREMISES.

Inspectors of the Water Department, or any person duly authorized by the Council, must have free access at all reasonable times to all parts of every building for the purpose of inspecting, removing and replacing meters, examining water fixtures and observing the manner in which water is used.

(`89 Code, § 161.170)

§ 57.32 LAWN SPRINKLING.

The use of water for lawn sprinkling purposes shall at all times be subject to limitation as to time and duration of use when in the opinion of the Council such limitation is necessary on account of emergency or for public benefit. The Council or designee may, when conditions make it necessary or advisable, forbid the use of water for sprinkling.

(`89 Code, § 161.180)

§ 57.33 SHUT OFF OF WATER.

(A) (1) The Water Department shall comply with the written request of the owner of a premises receiving water service or the request of a duly authorized agent to shut off the water service, providing shut off of water service is not for the sole purpose of

evicting an occupant from the premises. The Council may at any time shut off the water service for the purpose of extending, replacing, repairing or cleaning of mains and appurtenances, and in addition for the following reasons:

- (a) The property is vacant;
 - (b) The property is unsecured;
 - (c) The property is determined to be uninhabitable or unsuitable for occupancy;
 - (d) Other utilities to the property providing heat and/or light have been shut off;
 - (e) The property has a plumbing system that is failing or unsafe; and/or
 - (f) That running water to the property creates an unsanitary or unsafe condition to anyone who may enter the property.
- (2) The council shall not be held liable for any damage arising therefrom.

(B) Any person who violates the provisions of §§ 57.28, 57.30 or 57.31 or who fails to comply with any rule or regulation of the Council covering payments for water or water services may be denied the use of water, and the connections to the premises may be disconnected.

(‘89 Code, § 161.190) (Am. Ord. 684, passed 10-6-2009)

§ 57.34 CLAIMS.

No claims shall be made against the city by reason of the breaking of any service pipe or connection or any interruption to the water service.

(‘89 Code, § 161.200)

§ 57.35 FIRE SUPPLIES.

The Council will render a special service to private property for private fire protection purposes upon application. Cost of such service will be based upon the size of the service connection and the cost of special services rendered.

(‘89 Code, § 161.210)

§ 57.36 HYDRANTS AND GATE VALVE.

No person shall without authority use, tamper or interfere with any fire or street hydrant or water main gate valve. The Water Department may permit water to be used temporarily from any fire hydrant for nondomestic purposes in localities where no other supply can be obtained. In such cases, a reducer shall be attached to one of the hydrant openings and the supply controlled by means of a small valve and meter, which can be obtained from the Water Department.

(‘89 Code, § 161.220)

§ 57.37 DAMAGE TO WATER SYSTEM.

No person shall willfully use and appropriate the water or any portion thereof from the works operated by the Council without authority to do so, shall corrupt or render the water impure or shall destroy or injure any canal, aqueduct, pipe, conduit, machinery or other property used or required for procuring or distributing the water.

(‘89 Code, § 161.230) Penalty, see § 10.99

§ 57.50 OBJECTIVE.

The main objective of the city is to eliminate all individual water systems as soon as possible.

(`89 Code, § 163.010)

§ 57.51 PLUMBING CODE ADOPTED BY REFERENCE.

The State Plumbing Code is herein adopted by reference.

(`89 Code, § 163.020)

§ 57.52 PERMIT REQUIRED; APPLICATION.

No person shall install, alter, repair or extend an individual water system in the city if connection to the city water system is available. If connection to the city water system is unavailable, no person shall install, alter, repair or extend an individual water system without first obtaining a permit therefor from the City Engineer. If improvements to an individual water system, to the lot on which the system lies, to the structures which utilize the system or any other activity requiring a permit, variance or other review by the city are required or desired, arrangements must be made to connect with the city water system, if available, in accordance with this chapter. If connection to the city water supply system will replace an individual water supply system, the individual water supply system must be abandoned in accordance with practices approved by Ramsey County and the Minnesota Health Department.

(`89 Code, § 163.030) Penalty, see § 10.99

CHAPTER 58: ELECTRIC SERVICE UTILITY

Section

- 58.01 Authority to own and operate
- 58.02 Supervision of system
- 58.03 Rates and charges
- 58.04 Billing
- 58.05 Collection
- 58.06 Franchise agreement

§ 58.01 AUTHORITY TO OWN AND OPERATE.

The city owns and operates its own electrical distribution system for purposes of supplying power to private and public consumers. It may construct and install facilities reasonably needed for that purpose and may lease or purchase any existing properties so needed. It may, in lieu of providing for the local production of electricity, purchase the same wholesale and resell it to local consumers. After any such utility has been acquired, the Council, except as its powers have been limited through establishment of a public utilities commission in the city, shall make all necessary rules and regulations for the protection, maintenance, operation, extension, and improvement thereof and for the sale of utility products.

§ 58.02 SUPERVISION OF SYSTEM.

The Superintendent of the Electric Service Utility shall have control over the electric service authorized by the city and building, repair and maintenance thereof and connections therewith. The Electric Superintendent shall report to the City Manager.

§ 58.03 RATES AND CHARGES.

The Council shall by ordinance establish rates and charges for residential, commercial, industrial and other connections now existing or hereafter made to the public utilities of the city.

§ 58.04 BILLING.

All electric charges shall be collected with and as a part of the city utility bills, but shall be separately stated thereon.

§ 58.05 COLLECTION.

The electric service to any premises may be disconnected upon failure to pay the electric charge for the premises. Service shall not be resumed until all due bills plus a connection charge are paid. The electric charge shall constitute an indebtedness of the owner of the premises as well as the occupant thereof who receives electric service, and any claim for unpaid rates or charges which have been properly billed to the occupant of the premises as part of the utility bill for electric services may be thereafter collected in a civil action brought against the occupant or the owner of the premises, or both.

§ 58.06 FRANCHISE AGREEMENT.

The Electric Utility shall have use of the city owned, leased or easemented real property, rights-of- way or buildings as provided in a franchise agreement.

CHAPTER 59: PARKS AND RECREATION

Section

Reserved.

CHAPTER 60: CRIMINAL HISTORY BACKGROUND CHECKS

Section

- 60.01 Findings
- 60.02 Definitions
- 60.03 Employment background investigations
- 60.04 City license holder or applicant background investigations

§ 60.01 FINDINGS.

- (A) State law requires that thorough background investigations be completed for some city positions, such as peace officers. The City Council finds that a background investigation on all prospective employees, as well as city license holders is good practice.
- (B) Background investigations on all employees and city license holders, as described herein, will help to protect the reputation of the city by having knowledge of, and understanding of, prospective employees and city license holders and their prior history.
- (C) The background investigation on all prospective employees and city license holders is intended to ensure the safety and welfare of all residents, employees, and community members associated with North St. Paul employees, and city license holders.

(Ord. 680, passed 6-9-09)

§ 60.02 DEFINITIONS.

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

BACKGROUND INVESTIGATION. A background investigation can include, but is not limited to a computerized criminal history (CCH) check, internet search, press search, reference check, confirmation of education listed, driving record, public records, and consumer reports.

CITY EMPLOYEE or APPLICANT. Any person applying for any full or part time position, permanent or temporary, to be employed by the city, or volunteers working for or with city employees who may be working with children or vulnerable adults, or may have access to any records or data kept by the city.

CITY LICENSE HOLDER or APPLICANT. Any person(s), corporation, or partnership, applying for or renewing a city license for which a current and valid city license is required to operate.

(Ord. 680, passed 6-9-09)

§ 60.03 EMPLOYMENT BACKGROUND INVESTIGATIONS.

(A) *Criminal history background investigation.* The city Police Department is hereby required, as the exclusive entity within the city, to do a background investigation on all city employee applicants, unless the city's hiring authority concludes that a background investigation is not needed. Non-CCH background investigations can be completed by employees designated by the city's hiring authority.

(B) *Access of data.* 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 of Criminal Apprehensions (BCA) Computerized Criminal History (CCH) 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 Officer (CLEO) or the CLEO's designee. A summary of the results of the CCH data may be released by the Police Department to the hiring authority, including the City Council, City Manager, or designated city staff involved in the hiring process.

(C) *Authorization.* Before the CCH 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 M.S. Chapter 13 regarding the collection, maintenance and use of the information. Except for those positions set forth in M.S. § 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 on this basis, the city shall notify the applicant in writing of the following:

- (1) The grounds and reasons for the denial;
- (2) The applicant complaint and grievance procedures set forth in M.S. § 364.06;
- (3) The earliest date the applicant may reapply for employment; and
- (4) That all competent evidence of rehabilitation will be considered upon reapplication.

(Ord. 680, passed 6-9-09)

§ 60.04 CITY LICENSE HOLDER OR APPLICANT BACKGROUND INVESTIGATIONS.

(A) *Criminal History Background Investigation.* The city Police Department is hereby required, as the exclusive entity within the city, to do a background investigation on all applicants and renewal applicants for which a valid and current city license is required to operate. Non-CCH background investigations can be completed by employees designated by the city's licensing authority.

(B) *Access of data.* In conducting the criminal history background investigation in order to screen license holders or renewals, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions (BCA) Computerized Criminal History (CCH) 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 Officer (CLEO) or the CLEO's

designee. A summary of the results of the CCH data may be released by the Police Department to the licensing authority, including the City Council, City Manager, or designated city staff involved in the licensing process.

(C) *Authorization.* Before the CCH 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 M.S. Chapter 13 regarding the collection, maintenance and use of the information. Except for those positions set forth in M.S. § 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 on this basis, the city shall notify the applicant in writing of the following:

- (1) The grounds and reasons for the denial;
- (2) The applicant complaint and grievance procedures set forth in M.S. § 364.06;
- (3) The earliest date the applicant may reapply for employment; and
- (4) That all competent evidence of rehabilitation will be considered upon reapplication.

(Ord. 680, passed 6-9-09)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC REGULATIONS**
- 72. PARKING REGULATIONS**
- 73. SNOWMOBILES AND ALL TERRAIN VEHICLES**
- 74. PARKING SCHEDULES**

CHAPTER 70: GENERAL PROVISIONS

Section

70.01 State Traffic Code adopted

§ 70.01 STATE TRAFFIC CODE ADOPTED.

The regulatory provisions of M.S. Chapters 168, 169, 170 and 171, each as amended by subsequent laws of the State of Minnesota, are adopted as a traffic ordinance regulating the use of highways, streets and alleys within the city and are incorporated in and made a part of this chapter as completely as if set out here in full.

(`89 Code, § 120.010)

CHAPTER 71: TRAFFIC REGULATIONS

Section

General Regulations

- 71.01 Locking ignition
- 71.02 U turns

- 71.03 Repairs
- 71.04 Backing
- 71.05 Jumping rides
- 71.06 Speed in alleys
- 71.07 Avoiding intersection travel
- 71.08 Unnecessary noise
- 71.09 Controlling loud radios in motor vehicles
- 71.10 Unreasonable acceleration

Weight Restrictions

- 71.25 Weight limitations
- 71.26 Weighing
- 71.27 Special permits
- 71.28 Special road restrictions
- 71.29 Liability for damage

GENERAL REGULATIONS

§ 71.01 LOCKING IGNITION.

Every person parking a motor vehicle on a public street, alley or parking lot within the city shall lock the ignition, remove the key and take the same with him or her.

('89 Code, § 120.020)

§ 71.02 U TURNS.

No vehicle shall be turned around by making a "U" turn upon any street or highway in the city unless such vehicle shall first proceed to an intersecting street. Provided, however, that a "U" turn is prohibited at any intersection on any street or highway in the city where a police officer is stationed, where an illuminated automatic semaphore signal, a red and white painted stop sign or a "No U Turn" sign is located at the intersection. The Manager is authorized to erect signs prohibiting such turns at any intersection where in his or her judgment such turns would create a traffic hazard.

('89 Code, § 120.030) Penalty, see § 10.99

§ 71.03 REPAIRS.

No person shall repair any vehicle in the street except in an emergency in which the repair can be completed within 30 minutes.

('89 Code, § 120.040) Penalty, see § 10.99

§ 71.04 BACKING.

No person in control of any vehicle shall back said vehicle without ample warning, and while backing, the driver shall exercise due care so as not to endanger persons or property, and in no case shall any vehicle be backed around a corner at or into an intersection of

streets or highways.

(`89 Code, § 120.050) Penalty, see § 10.99

§ 71.05 JUMPING RIDES.

No person shall ride in or jump into or upon any vehicle without the consent of the driver, and no person shall, when riding, allow any part of the body to project beyond the limits of any motor vehicle, except when signaling according to law, nor shall any person board or alight from, nor hang onto any motor vehicle, when such motor vehicle is in motion. This section shall not apply to authorized emergency vehicles.

(`89 Code, § 120.060) Penalty, see § 10.99

§ 71.06 SPEED IN ALLEYS.

No person shall drive a vehicle on any public alley in the city at a speed greater than is reasonable and prudent under the circumstances and in no event at a speed greater than ten miles per hour.

(`89 Code, § 120.070) Penalty, see § 10.99

§ 71.07 AVOIDING INTERSECTION TRAVEL.

No person shall drive a vehicle through a private driveway located next to an intersection so as to avoid using the intersection.

(`89 Code, § 120.080) Penalty, see § 10.99

§ 71.08 UNNECESSARY NOISE.

(A) *Definitions.* For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ENGINE RETARDING BRAKE. A Dynamic Brake, Jake Brake, Jacobs Brake, C-Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

ABNORMAL OR EXCESSIVE NOISE.

(a) Distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;

(b) Noise in excess of that permitted by M.S. § 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order; or

(c) Noise in excess of that permitted by M.S. § 169.693 and Minn. Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

(B) It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(C) It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

(D) M.S. § 169.69 and 169.693 (motor vehicle noise limits) and Minn. Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.

(E) Signs stating "VEHICLE NOISE LAWS ENFORCED" may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this section, except that no sign stating "VEHICLE NOISE LAWS ENFORCED" shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no signs are installed.

(`89 Code, § 120.090) Penalty, see § 10.99

§ 71.09 CONTROLLING LOUD RADIOS IN MOTOR VEHICLES.

All operations of any motor vehicle radio receiving set, tape player, compact disc player, paging system or any other device for the production or reproduction of sound in a distinctly and loudly audible manner so as to unreasonably disturb the peace, quiet and comfort of any person nearby or at a distance of 25 feet or more is prohibited.

(`89 Code, § 120.091) Penalty, see § 10.99

§ 71.10 UNREASONABLE ACCELERATION.

No person shall start, drive, move or accelerate any motor vehicle with unnecessary speed or with an unnecessary exhibition of speed on any public or private roadway or parking lot within the city limits. Prima facie evidence of such unnecessary speed shall be unreasonable squealing or screeching sounds emitted by the tires, tire marks on the pavement caused by such acceleration or the throwing of sand or gravel by the tires of the vehicle. Motor vehicles for the purpose of this section shall specifically include automobiles, trucks and motorcycles.

(`89 Code, § 120.100) Penalty, see § 10.99

WEIGHT RESTRICTIONS

§ 71.25 WEIGHT LIMITATIONS.

No vehicle or combination of vehicles equipped with pneumatic tires shall be operated upon the highways in the city:

- (A) Where the gross weight on any wheel exceeds 9,000 pounds;
- (B) Where the gross weight on any single axle exceeds 18,000 pounds.

(`89 Code, § 122.010) Penalty, see § 10.99

§ 71.26 WEIGHING.

(A) Any police officer having reason to believe that the weight of a vehicle is unlawful is authorized to require the driver to submit to a weighing of the vehicle either by means of portable or stationary scales and may require that such vehicle be driven to the nearest scales in the event such scales are within five miles.

(B) When an officer, upon weighing a vehicle and load as above provided, determines that the weight of any axle exceeds the lawful weight or that the weight on any group of two consecutive axles spaced six feet or less apart exceed their lawful weight or that the weight is unlawful on any axle or group of consecutive axles on any road restricted under § 71.28, the officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to a permissible limit. All materials so unloaded shall be cared for by the owner or driver of such vehicle at the risk of the owner or driver.

(C) No vehicle driver shall fail or refuse to stop and to submit the vehicle to a weighing or to otherwise comply with the provisions of this section.

(`89 Code, § 122.020) Penalty, see § 10.99

§ 71.27 SPECIAL PERMITS.

The City Manager or designee upon application in writing and for good cause may 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 specified in this chapter. The application for any such permit shall specifically describe the vehicle or vehicles and loads to be moved and the particular highways for which permit to so use is requested and the period of time for which such permit is requested. The City Manager or designee is authorized to issue or withhold such permit at discretion and, if necessary, to insure against undue damage to road foundations, surfaces or structures and may require such security as may be deemed necessary to compensate for any injury to any roadway or road structure. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer. No person shall violate any of the terms or conditions of the special permit.

(`89 Code, § 122.030) Penalty, see § 10.99

§ 71.28 SPECIAL ROAD RESTRICTIONS.

The Council is authorized, by published resolution, to prohibit the operation of trucks or other commercial vehicles or to impose limitations as to weight thereof on any highway, street, alley or roadway within the city whenever any such highway, street, alley or roadway, by reason of deterioration, rain, frost, snow or other climactic conditions, will be seriously damaged or destroyed, unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced. Prohibitions or restrictions shall not be effective unless and until signs are posted on the designated highways, streets, alleys or roadways.

(`89 Code, § 122.040)

§ 71.29 LIABILITY FOR DAMAGE.

Any person driving a vehicle in violation of the provisions of this subchapter shall be liable for all street damage resulting from such act. When the person is driving the vehicle in violation of the provisions of this subchapter with the express or implied consent of the owner, the owner and driver shall be jointly and severally liable for all resulting street damage.

(`89 Code, § 122.050)

CHAPTER 72: PARKING REGULATIONS

Section

- 72.01 Parking restricted in Business District
- 72.02 Winter parking
- 72.03 Removal of illegally parked vehicles
- 72.04 Truck parking restricted
- 72.05 Manner of parking
- 72.06 Parking restricted
- 72.07 Parking prohibited
- 72.08 Parking privileges for the physically handicapped
- 72.09 Motorcycle parking
- 72.10 Enforcement

Cross reference:

Parking schedules, see Chapter 74

§ 72.01 PARKING RESTRICTED IN BUSINESS DISTRICT.

(A) The Council shall have the authority, by resolution, to restrict the parking of any motor vehicle, trailer, snowmobile or bike of any kind in the Business District of the city, and no person in charge of the vehicle, or the owner, shall permit the vehicle to be parked in violation of said resolution.

(B) For the purpose of this title, the Business District is comprised of the following: Seventh Avenue from First Street to Division Street; Margaret Street from Fifth Avenue to the Minnesota State Highway 36; Charles Street from Seventh Avenue to the Minnesota State Highway 36.

(`89 Code, § 121.010) Penalty, see § 10.99

§ 72.02 WINTER PARKING.

No person in charge of any vehicle, trailer or implement shall park or permit such vehicle, trailer or implement to stand or remain on any street or alley, except in compliance with the direction of a police officer or in compliance with regulatory parking signs on:

(A) Any street or alley between the dates of November 1 and March 31 between the hours of 1:00 a.m. and 7:00 a.m.;

(B) Following the accumulation of two or more inches of snow, it shall be unlawful for any person to park such vehicle, trailer or implement on the street or alley until snow removal has been completed curb to curb on said streets or alleys;

(C) Any street, between the date of November 1 and March 31, which the Council has, by resolution, directed that parking be limited to one side only or that parking be eliminated altogether. The resolutions to be in effect eight hours after the designated streets have been posted.

(`89 Code, § 121.020) Penalty, see § 10.99

§ 72.03 REMOVAL OF ILLEGALLY PARKED VEHICLES.

(A) Any vehicle parked in violation of this chapter is declared a nuisance and the same may be summarily abated by removing such vehicle by or under the direction of or at the request of any police officer to a place of storage by means of a towing truck or otherwise or said police officer may require the driver or owner to remove said vehicle off the paved, improved or traveled portion of said street.

(B) Before the owner or agent shall be permitted to remove a vehicle from said place of storage, they shall:

(1) Furnish satisfactory evidence to the Chief of Police and the person in charge of said storage area of his or her identity and ownership of the vehicle;

(2) Pay to the person in charge of said storage area for the towing and storage of the vehicle such sums of money as the Council shall establish by resolution, upon completion of a bidding process;

(3) Sign a written receipt for the vehicle.

(C) The removal of a vehicle which is parked in violation of this chapter by or under the direction of or at the request of any police officer shall not prevent a prosecution for violation of any provision of this chapter.

(`89 Code, § 121.030)

§ 72.04 TRUCK PARKING RESTRICTED.

No person shall park a truck, truck tractor or semi-trailer which has a gross vehicle weight in excess of six tons for more than two hours at a time on any street in any area zoned in whole or in part for residential use under the provisions of this code.

(`89 Code, § 121.040)

§ 72.05 MANNER OF PARKING.

No person shall stand or park a vehicle other than so it is headed in the direction of traffic moving on the side of the street on which it is parked.

(`89 Code, § 121.050) Penalty, see § 10.99

§ 72.06 PARKING RESTRICTED.

No person in charge of any vehicle or trailer operable or inoperable shall park or permit such vehicle or trailer to stand on any city property or city parking lots for more than 12 hours during any 24 hour period. Permits to so park may be granted by the Manager to those persons who are doing work for the city.

(`89 Code, § 121.060) Penalty, see § 10.99

§ 72.07 PARKING PROHIBITED.

No person shall park a vehicle in any of the following places:

- (A) Within a designated or marked bus stop or cab zone;
- (B) In a public alley;
- (C) At any place where public curbs are painted yellow;
- (D) On any street or highway for a period of more than 12 hours.
- (E) Where temporary signs prohibit parking as long as such signs are in place;
- (F) On a boulevard where curbs are present.

(`89 Code, § 121.070) Penalty, see § 10.99

§ 72.08 PARKING PRIVILEGES FOR THE PHYSICALLY HANDICAPPED.

(A) Any physically handicapped person who displays prominently upon the automobile the distinguishing certificate or insignia specified in this section shall be entitled to park his or her vehicle in the zones designated for parking for the handicapped in public and private parking lots or along public streets in the city. The zones shall be established by the Council by resolution and shall be marked and designated by suitable signs.

(B) ***PHYSICALLY HANDICAPPED*** as used in this section shall include any person who has sustained an amputation of permanent material disability of either or both arms or legs or who has been otherwise permanently disabled in any manner making it difficult or burdensome for him or her to walk.

(C) As used in this section, ***IDENTIFYING CERTIFICATE*** means the certificate issued by the Traffic Division of Public Safety pursuant to M.S. § 169.345, as it may be amended from time to time.

(D) If the police of the city shall find that such certificate or insignia is being improperly used, they shall report to the Motor Vehicle Division of the Department of Public Safety any such violation.

(E) No person shall park a motor vehicle in any zone signed for handicapped parking only, unless such motor vehicle is displaying an identifying certificate as provided for in division (C) of this section. In addition to any misdemeanor charge hereunder, any motor vehicle parked in violation of this section may be towed away, under the direction of an officer.

(F) Any person who is not physically handicapped and does not have the necessary certificate as required hereunder and who exercises the privileges granted to the physically handicapped under this section shall be guilty of a misdemeanor.

(`89 Code, § 121.090) Penalty, see § 10.99

§ 72.09 MOTORCYCLE PARKING.

A person parking a motorcycle on the roadway of a street or highway must:

(A) If parking in a marked parking space, park the motorcycle completely within the marked space; and

(B) Park the motorcycle in such a way that the front of the motorcycle is pointed or angled toward the nearest lane of traffic to the extent practicable and necessary to allow the operator to:

(1) View any traffic in both directions of the street or highway without having to move the motorcycle into a lane of traffic and without losing balance or control of the motorcycle; and

(2) Ride the motorcycle forward and directly into a lane of traffic when the lane is sufficiently clear of traffic.

§ 72.10 ENFORCEMENT.

Parking restrictions may be enforced by non- police personnel employed by the city either full or part-time.

(`89 Code, § 121.100)

CHAPTER 73: SNOWMOBILES AND ALL-TERRAIN VEHICLES

Section

73.01 Incorporation

73.02 Unlawful circumstances

73.03 Exceptions

73.04 Enforcement

§ 73.01 INCORPORATION.

Any person operating a snowmobile and all- terrain vehicles in the city, unless provided otherwise herein, shall be subject to the provisions of M.S. §§ 84.81 to 84.929, as it may be amended from time to time, inclusive and to the regulations of the Commissioner of Natural Resources, all of which incorporated herein by reference.

(`89 Code, § 124.010)

§ 73.02 UNLAWFUL CIRCUMSTANCES.

It shall be unlawful for any person to drive, operate, control or direct the course of travel of any snowmobile or all-terrain vehicles in the corporate limits of the city without first obtaining permission from the City Manager.

(`89 Code, § 124.020) (Am. Ord. 652, passed 2-1-2005) Penalty, see § 10.99

§ 73.03 EXCEPTIONS.

All terrain vehicles, when used for husbandry or for snow removal on private property are exempt from this chapter.

(Ord. 652, passed 2-1-2005)

§ 73.04 ENFORCEMENT.

Operation of a snowmobile or all terrain vehicle in the corporate limits of the City of North St. Paul constitutes a public nuisance and is punishable under § 10.99 of this code.

(Ord. 652, passed 2-1-2005)

CHAPTER 74: PARKING SCHEDULES

Schedule

I. Parking on Seventh Avenue

SCHEDULE I. PARKING ON SEVENTH AVENUE.

Upon Seventh Avenue, between Charles and First Street, which has been marked for angle parking, vehicles shall be parked at the angle to the curb indicated by such marks. All parked vehicles must be parked with the front end of the vehicle next to the curb. No vehicle shall make a left turn across the center line to enter any parking stall. Vehicles when leaving any parking stall shall only back into the first lane of traffic and shall then only proceed forward in said lane of traffic.

(`89 Code, § 121.080) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. AIR POLLUTION CONTROL
- 91. FIRE PREVENTION AND PROTECTION
- 92. PARKS AND LAKES
- 93. TREES
- 94. STREETS AND SIDEWALKS
- 95. ANIMALS
- 96. HAZARDOUS MATERIALS AND LIQUIDS
- 97. DRUGS, NARCOTICS, POISONS AND CHEMICALS
- 98. NUISANCES
- 99. ALARM SYSTEMS
- 100. USER CHARGE FOR EXCESSIVE SERVICES

CHAPTER 90: AIR POLLUTION CONTROL

Section

90.01 Adoption of regulations of Minnesota Pollution Control Agency

§ 90.01 ADOPTION OF REGULATIONS OF MINNESOTA POLLUTION CONTROL AGENCY.

There is adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property the

Ambient Air Quality Standards and Air Pollution Control Regulations as published by the Minnesota Pollution Control Agency and in effect as of the date hereof, and the same is adopted and incorporated as fully as if set out at length herein, and from the date on which this section takes effect, the provisions thereof shall be controlling within the limits of the city.

(`89 Code, § 137.010)

CHAPTER 91: FIRE PREVENTION AND PROTECTION

Section

Minnesota State Fire Code

- 91.01 Adoption of Minnesota State Fire Code
- 91.02 Enforcement
- 91.03 Definitions
- 91.04 Penalties
- 91.05 Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is to be prohibited
- 91.06 Establishment of limits in which bulk storage of liquified petroleum gases is to be restricted
- 91.07 Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited
- 91.08 Appeals
- 91.09 Repeal of conflicting ordinances
- 91.10 Fire lanes
- 91.11 Life Safety Code
- 91.12 Violations
- 91.13 Fires or barbeques on balconies or patios

Fire Regulations

- 91.25 Fire certificate of compliance
- 91.26 Access to premises granted
- 91.27 Prohibited conditions
- 91.28 Notification of fire hazard
- 91.29 Recreational fires; regulations
- 91.30 Destruction of condemned structures

Nonresident Emergency Fire Services Involving Motor Vehicles

- 91.40 Purpose and intent
- 91.41 Definitions
- 91.42 Parties affected
- 91.43 Billing and collection
- 91.44 Hardship waiver of fees

§ 91.01 ADOPTION OF MINNESOTA STATE FIRE CODE.

Pursuant to M.S. § 299F.011, as it may be amended from time to time, the *Minnesota State Fire Code*, one copy of which has been marked as the official copy and which is on file in the office of the City Manager, is hereby adopted as the Fire Code for the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. Every provision contained in the Minnesota State Fire Code, except as hereinafter amended, is hereby adopted and made a part of this chapter as if fully set forth herein. The scope of these regulations is intended to be consistent with M.S. § 299F.011, as it may be amended from time to time.

(`89 Code, § 26.010) (Ord. 644, passed 8-19-2003)

§ 91.02 ENFORCEMENT.

The Chief of the Fire Department (hereinafter for convenience of reference "Chief" or "Fire Chief") or his or her authorized representatives shall enforce the provisions of this chapter. The Fire Chief may detail such members of the Fire Department as inspectors as shall from time to time be necessary.

(`89 Code, § 26.020) (Ord. 644, passed 8-19-2003)

§ 91.03 DEFINITIONS.

(A) Whenever the word "jurisdiction" is used in the *Minnesota State Fire Code*, it shall be held to mean the city.

(B) Whenever the term "Corporation Counsel" is used in the *Minnesota State Fire Code*, it shall be held to mean the Attorney.

(`89 Code, § 26.030)

(C) Whenever the term "Chief of any jurisdiction adopting this code" is used in the Minnesota State Fire Code, it shall mean the Chief of the Fire Department.

(D) "Code" of "Fire Code" where not more specifically enumerated, shall be construed to include the Minnesota State Fire Code, as adopted by the State of Minnesota pursuant to M.S. § 299F.011, as it may be amended from time to time, and any amendments thereto adopted by the city, as well as other provisions of this City Code having reference to the duties of the Fire Department and the division of fire prevention and prescribing regulations governing conditions hazardous to life and property from fire or explosion.

(E) Wherever the term "Fire Prevention Bureau" is used in the Minnesota State Fire Code, it shall mean the Division of Fire Prevention of the Department of Fire and Safety Services of the city.

(Ord. 644, passed 8-19-2003)

§ 91.04 PENALTIES.

(A) Unless otherwise stated herein, any person who shall violate any of the provisions of this code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Fire Chief or his or her authorized representative or by a court of competent jurisdiction within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor violation. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy the violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(B) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. 644, passed 8-19-2003)

§ 91.05 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS IS TO BE PROHIBITED.

(A) The limits referred to in § 15.201 of the *Minnesota State Fire Code* in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited are established as the entire city.

(B) The limits referred to in § 15.601 of the *Minnesota State Fire Code* in which new bulk plants for flammable or combustible liquids are prohibited are established as the entire city.

('89 Code, § 26.040)

§ 91.06 ESTABLISHMENT OF LIMITS IN WHICH BULK STORAGE OF LIQUIFIED PETROLEUM GASES IS TO BE RESTRICTED.

The limits referred to in § 20.105(a) of the *Minnesota State Fire Code* in which bulk storage of liquified petroleum gas is prohibited are established as the entire city.

('89 Code, § 26.050)

§ 91.07 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS IS TO BE PROHIBITED.

The limits referred to in § 11.106(b) of the *Minnesota State Fire Code* in which storage of explosives and blasting agents is prohibited are established as the entire city.

('89 Code, § 26.060)

§ 91.08 APPEALS.

Whenever the Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief to the City Council within 30 days from the date of the decision appealed.

('89 Code, § 26.070)

§ 91.09 REPEAL OF CONFLICTING ORDINANCES.

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this chapter or of the Code adopted are repealed. However, those provisions of the National Fire Code not in conflict with this chapter shall remain in full force and effect.

('89 Code, § 26.090)

§ 91.10 FIRE LANES.

The Council is authorized to order the establishment of fire lanes on public or private property as may be necessary in order that the travel of fire equipment may not be interfered with and that access to fire hydrants or buildings may not be blocked off. When a fire lane has been ordered to be established, it shall be marked by a sign bearing the words "No Parking - Fire Lane" or a similar message. When the fire lane is on public property or a public right-of-way, the sign or signs shall be erected by the city, and when on private property, they shall be erected by the owner at their own expense within 30 days after notification of the order. Thereafter, no person shall park a vehicle or otherwise occupy or obstruct the fire lane.

(`89 Code, § 26.100) Penalty, see § 10.99

§ 91.11 LIFE SAFETY CODE.

Chapter 101 of the National Fire Protective Association Code, published by the National Fire Protection Association, latest edition, entitled the Life Safety Code, is adopted and incorporated herein as if fully set out hereafter; one copy of which is on file with the City Manager as required by law.

(`89 Code, § 26.110)

§ 91.12 VIOLATIONS.

(A) Any person who shall violate any of the provisions of this Code adopted or fail to comply therewith, who shall violate or fail to comply with any order made thereunder or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(B) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(`89 Code, § 26.080)

§ 91.13 FIRES OR BARBECUES ON BALCONIES OR PATIOS.

(A) *Open flame prohibited.* In any structure containing three 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 (4,572 mm) of the structure.

(B) *Fuel storage prohibited.* No person shall store or use any fuel, barbecue, torch, or other similar heating or lighting chemical or device in the locations designated in division (A).

(C) *Exception.* Listed electric or gas-fired barbecue grills that are permanently mounted and wired or plumbed to the building's gas supply or electrical system and that maintain a minimum clearance of 18 inches (457 mm) on all sides, unless listed for lesser clearances, may be installed on balconies and patios when approved by the Fire Chief.

FIRE REGULATIONS

§ 91.25 FIRE CERTIFICATE OF COMPLIANCE.

(A) *Use and occupancy.* No building in Group A (Assembly), B (Business), E (Education), F (Factory), I (Institutional), H (Hazardous), M (Mercantile), or S (Storage) as classified in the Minnesota State Building Code, shall be used or occupied without a fire certificate of compliance.

(B) *Fee.* The property owner must pay the fire certificate of compliance application fee in the amount set by ordinance by the City Council.

(C) *Certificate.* A fire certificate of compliance shall be issued each year after submission of a fee and completed application that has been reviewed and approved by the city. The certificate shall contain the following information:

- (1) The building certificate number.
- (2) The address of the building.

(3) The name and address of the owner.

(4) A description of the portion of the building for which the certificate is issued.

(5) The name of the building contact or agent.

(6) The business name of all tenants.

(D) *Agent.* No certificate shall be issued or renewed unless the applicant designates in writing to the Fire Chief an agent who resides in any of the following Minnesota counties: Hennepin, Ramsey, Anoka, Carver, Dakota, Scott or Washington; or Wisconsin counties: Polk, St. Croix and Pierce. Said agent shall be held responsible for maintenance and upkeep of the property and must be empowered to receive service of notice of violations of the provisions of the Minnesota State Fire Code, to receive orders and institute remedial action to effect such orders, and to accept all service of process pursuant to law. An applicant must immediately notify the Fire Chief in writing of any change of agent.

(E) *Inspection.* The Fire Chief or designee shall inspect each building once every two years, if the city has obtained consent of the building owner or an administrative search warrant. Inspections shall consist of a compliance check with the applicable Minnesota State Fire Code provisions. If the owner of the building does not cooperate in facilitating an inspection pursuant to an administrative search warrant, the Fire Chief may deny the fire certificate of compliance application.

(F) *Posting.* The fire certificate of compliance shall be posted in a conspicuous place.

(G) *Revocation.* The Fire Chief may, in writing, suspend, revoke, or deny a fire certificate of compliance issued under the provisions of this code whenever the certificate was issued in error or on the basis of incorrect information supplied, or when the Fire Chief determines that a violation of the Minnesota State Fire Code exists in the building.

(H) *Appeal.* Any applicant who is denied a certificate and any person whose certificate is suspended or revoked may appeal such action to the Council. The Council will hold a hearing on any such appeal within 30 days after the appeal is filed with the City Manager.

(Ord. 752, passed 6-7-2016)

Cross reference:

Fire Department, see Chapter 53

§ 91.26 ACCESS TO PREMISES GRANTED.

For the purpose of making inspections, the Fire Chief or other properly designated persons shall have authority to enter any commercial or industrial building and upon any premises in the city between the hours of 7:00 a.m. and 6:00 p.m. No person shall deny an inspector access as is herein provided. In case of refusal, the Chief shall have the right to request a search warrant from the District Court to complete the inspection.

(`89 Code, § 131.020)

§ 91.27 PROHIBITED CONDITIONS.

No owner, occupant or agent of any building in the city shall:

(A) Permit any ashes, waste, paper, hay, straw, rags or other waste material of a combustible nature to accumulate in the basement or on any floor of a building or in any hallway, court, yard or alley adjoining a building;

(B) Permit any defective electrical wiring or defective heating device or part thereof, including flues and chimneys, to exist on the property;

(C) Permit any premises, building or structure, or any portion thereof, which by reason of want of repairs, age, dilapidated condition or damage by fire or other cause, is especially liable to fire or which is so situated or in such condition as to endanger its occupants or the general public to exist on the property.

(`89 Code, § 131.030) Penalty, see § 10.99

§ 91.28 NOTIFICATION OF FIRE HAZARD.

The investigating officer is authorized to notify in writing the owner, occupant or agent of any premises containing a fire hazard. Service of the notice shall be in person or by mail. The notice shall order any accumulation of combustible material to be removed within 48 hours after service thereof and shall specify a reasonable time within which any other fire hazard is to be corrected or removed. No person shall fail to comply with such an order. Any failure to comply shall be reported to the Council.

(`89 Code, § 131.040)

§ 91.29 RECREATIONAL FIRES; REGULATIONS.

(A) A property owner or lessee of the property may have a recreational fire/camp fire without obtaining a permit from the city provided that the following regulations be complied with.

(1) Hours of burning are 4:00 p.m. to 11:00 p.m.

(2) Clean dry wood only (no refuse, grass, leaves, branches, paper, garbage or other combustibles).

(3) Size shall not be more than three feet in diameter, nor shall the flames reach a height in excess of three feet and there is no combustible material within five feet of the base of the fire.

(4) No fire shall be within 20 feet of any building or structure.

(5) A means of extinguishment must be in the immediate are of the fire.

(6) Fire shall be constantly attended until completely extinguished.

(7) No fire shall be started or maintained in dry conditions or winds over 15 mph.

(B) ***RECREATIONAL/CAMPFIRE*** means a fire set for cooking, warming, or ceremonial purposes.

(`89 Code, § 137.050) (Ord. 607, passed 2-6-1995)

§ 91.30 DESTRUCTION OF CONDEMNED STRUCTURES.

(A) Whenever the owner of any obsolete of condemned house, building or other structure in the city undertakes to demolish or destroy same by burning, such owner shall contact the Chief of the Fire Department or designee and make arrangements for the burning. Destruction of any structure in this manner shall be done only under supervision and control of the Fire Department and pursuant to a permit issued by the Fire Chief. A charge may be made for this service, and the money so received by the Fire Department shall be used to defray expenses of the Department.

(B) No permit shall be issued to burn any structure in the city until such time as approval or permit has been issued by the Minnesota Pollution Control Agency.

(`89 Code, § 137.060)

NONRESIDENT EMERGENCY FIRE SERVICES INVOLVING MOTOR VEHICLES

§ 91.40 PURPOSE AND INTENT.

Sections 91.40 through 91.44 are adopted for the purpose of allowing the city to charge any nonresident of the city for certain fire services as authorized by M.S. § 415.01, Subd. 2.

(Ord. 694, passed 7-20-2010)

§ 91.41 DEFINITIONS.

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

FIRE SERVICE. Any deployment of fire fighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area of or threatened by fire. It also includes the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occur.

FIRE SERVICE CHARGE. The charge imposed by the city for receiving fire service.

MOTOR VEHICLE. Any self-propelled vehicle designed and manufactured to operate primarily upon public roads and highways, including semi-trailers.

(Ord. 694, passed 7-20-2010)

§ 91.42 PARTIES AFFECTED.

Fees for any nonresident party who receives fire service involving a motor vehicle accident or motor vehicle fire shall be determined as set forth in the Municipal Fee Schedule, adopted by ordinance and which may be amended from time to time.

(Ord. 694, passed 7-20-2010)

§ 91.43 BILLING AND COLLECTION.

(A) A nonresident party receiving fire service will be billed directly by the City.

(B) Additionally, if insurance information is made available, a copy of the invoice and city ordinance will be sent to the vehicle owner's insurance company. If insurance information is not available, it is the responsibility of the owner to submit invoices to their insurance company. In either situation, it remains the responsibility of the vehicle owner to pay the fee in full.

(C) A nonresident party billed for fire service will have 30 days from the time of notice to pay, and if not paid by that time, it will be considered delinquent and an additional charge of 10% will be added to the amount due. Additionally, such party shall be liable for all collection costs incurred by the city, including reasonable attorney fees and cost.

(D) If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the city all charges collected on behalf of the city. The city must give the property owner notice of its intent to proceed in this manner by September 15 of the year in which it certifies the unpaid charge to the appropriate County Auditor.

(Ord. 694, passed 7-20-2010)

§ 91.44 HARDSHIP WAIVER OF FEES.

When the city determines that imposition of a fee would impose an extreme economic hardship as determined by the city, the city may reduce or waive the fee as deemed appropriate by the City Manager. Any party may appeal the determination by the City Manager to the City Council for consideration. Economic hardship may be established where a party is totally disabled and receiving social security benefits or railroad similar fixed income, retirement or disability benefits, and whose total household income is less than the annual low income level established by the U.S. Department of Housing and Urban Development Low Income Level.

(Ord. 694, passed 7-20-2010)

CHAPTER 92: PARKS AND LAKES

- 92.01 Destruction, defacement or theft of park property
- 92.02 Littering
- 92.03 Fires
- 92.04 Prohibited activities
- 92.05 Parking and driving vehicles
- 92.06 Animals in parks
- 92.07 Hunting or interfering with animals
- 92.08 Skating regulations
- 92.09 Bathing regulations
- 92.10 Aircraft regulations
- 92.11 General restriction on athletics
- 92.12 Additional rules and regulations

§ 92.01 DESTRUCTION, DEFACEMENT OR THEFT OF PARK PROPERTY.

No person shall:

(A) Cut, break, scratch, mark or in any way injure or deface or remove a building, fence, post, pumps, lamp, flagpole, construction work, improvement facility or any other feature or property in any public park;

(B) Post, paste, fasten, paint or affix any placard, bill, notice or sign upon any structure, post, pole, stone, fence, thing or enclosure in any public park, unless by authorization in writing by the Manager;

(C) Pick or cut any wild or cultivated flowers or cut, break or in any way injure or deface any tree, shrub or plant in any public park;

(D) Carry within or out of any public park any wild flower, tree, shrub, plant or any newly plucked branch or portion thereof or any soil or other material belonging in or pertaining to such park; or

(E) Go on foot upon the grass or turf of any public park where a prohibitory sign is posted.

(`89 Code, § 153.010) Penalty, see § 10.99

§ 92.02 LITTERING.

No person shall throw or cast any stone or other object or aim or discharge any air gun, sling shot or other weapon in a public park except pursuant to the rules of a permitted game or recreation. No person shall throw, deposit, place or leave in any public park or water therein any paper, rubbish, waste, cans, bottles, grass blades or refuse of any kind, whether or not the same is offensive to the senses or injurious to health, except in receptacles provided for the collection of waste.

(`89 Code, § 153.020) Penalty, see § 10.99

§ 92.03 FIRES.

No person shall:

(A) Start or maintain any fire in any public park except small fires made by picnic parties in locations designated for that purpose by the city;

(B) Leave any fire made or used unextinguished when they leave the public park; or

(C) Start or maintain any fire on the ice on any lake within the city, except that a manufactured heater burning liquid fuel may be used.

(`89 Code, § 153.030) Penalty, see § 10.99

§ 92.04 PROHIBITED ACTIVITIES.

No person shall:

(A) Refuse to comply with the reasonable order of any city lifeguard when such order is made in order to maintain order and safety;

(B) Drink or consume any beverage having an alcoholic content or cook in any area designated and marked specifically as a bathing beach or adjacent parking area;

(C) Use any threatening, profane, abusive, disorderly, insulting or indecent language or perform any act tending to be a breach of the peace or gamble or do any indecent, lascivious, lewd or improper conduct in any public park;

(D) Sell or offer for sale any articles in any public park, provided that refreshments or other articles may be sold by the city or by persons authorized to do so by the Manager;

(E) Give any public speech or hold or participate in any rally, convention, assembly or meeting in any public park without the written permission of the Manager which shall be withheld only when necessary to prevent conflict with regular park activities and insure that adequate health and safety measures may be implemented;

(F) Promote or participate in an entertainment or exhibition in any park without permission of the Manager;

(G) Participate in or conduct any band procession, parade or formation in any public park without the written permission of the Manager;

(H) Place or keep in any public park any goods, wares, merchandise or other articles which interfere with the free use and enjoyment of the park by the public;

(I) Distribute or display within any public park any circulars, cards or announcements, printed or not, for events other than those sponsored by or with the participation or endorsement of the city;

(J) Be in or remain in any public park between the hours of 11:00 p.m. and 7:00 a.m., except by special permit issued by the City Manager;

(K) Any person of lawful age may possess and consume an intoxicating liquor or 3.2% malt liquor in any park, except the McKnight Field Sports Complex with the following regulations:

(1) *Hours.* Between the hours of 9:00 a.m. and 9:00 p.m:

(a) In areas so designated and marked; and

(b) The City Manager may issue a special permit for hours other than listed above.

(2) *McKnight Field Sports Complex.* Any person of lawful age may possess and consume an intoxicating liquor or 3.2% malt liquor between 9:00 a.m. and 11:00 p.m. when said beverage has been sold at this park under a permit or license issued by the City of North St. Paul:

(a) In areas so designated and marked;

(b) Glass containers will not be allowed or sold in park; and

(c) The City Manager may issue a special permit for hours other than listed above.

(`89 Code, § 153.040) (Ord. 749, passed 1-19- 2016) Penalty, see § 10.99

§ 92.05 PARKING AND DRIVING VEHICLES.

(A) Recreational vehicle means any self- propelled motorized vehicle designed for travel on natural terrain on snow or ice and steered by wheels, skis or runners. This shall include motorcycles, mini-bikes, motorized chugs, snowmobiles and all terrain vehicles.

(B) No person shall:

(1) Be or remain in any motor vehicle or leave or park any motor vehicle in any public park or adjacent parking area between the hours of 11:00 p.m. and 7:00 a.m.;

(2) Drive or park any motor vehicle on any turf area of any public park not designated for parking or travel;

(3) All recreational vehicles shall be driven in a reasonable manner as not to endanger the safety of others in all authorized parks and lakes. Racing is prohibited. Recreational vehicles shall not be driven at a speed in excess of 30 mph on any authorized lake or park. Recreational vehicles shall reduce their speed to not greater than 15 mph when within 150 feet of any lake or waterway shore, fisherman, pedestrian, fishhouse, skating rink, sliding area or any other area where the use of the vehicle may be considered hazardous to park or water users;

(4) Drive any recreational vehicle in any park area except as and at such times as the Council may by resolution authorize or designate and only then when there is adequate snow cover or ice thickness present to prevent damage to public property or injury to life;

(5) No persons shall operate a recreational vehicle in any park or lake between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and 12:00 a.m. to 7:00 a.m. on other days and all holidays except Christmas; or

(6) No person under the age of 14 years shall operate a recreational vehicle in any park or lake unless in compliance with state law.

(`89 Code, § 153.050) Penalty, see § 10.99

§ 92.06 ANIMALS IN PARKS.

No person shall:

(A) Allow any domestic animal to run at large in a park;

(B) Take or allow any horse, cattle, mule, swine, sheep, goats or fowl in or upon any public park or public waters.

(`89 Code, § 153.060) Penalty, see § 10.99

Cross reference:

Animals, see Chapter 95

§ 92.07 HUNTING OR INTERFERING WITH ANIMALS.

No person shall:

(A) Rob, injure or destroy any bird nest, aim or discharge any air gun, slingshot or other weapon or throw any stone or other missile at any bird or creature in any park;

(B) Set, lay, prepare or have in possession any trap, snare, artificial light, net, bird line, ferret, hawk or any contrivance whatever for the purpose of catching, taking or killing any bird or wild creature in any public park.

(`89 Code, § 153.070) Penalty, see § 10.99

§ 92.08 SKATING REGULATIONS.

No person shall engage in any of the following acts on public skating rinks, unless pursuant to a program of organized winter sports conducted by the city:

(A) Sledding, tobogganing, snowmobiling or use of all-terrain vehicles on rinks;

(B) Using hockey sticks or pucks in areas not marked for hockey play;

(C) No hockey game or pleasure skating shall continue past the park curfew hours of 11:00 p.m. to 8:00 a.m.; or

(D) Refusal to comply with the reasonable order of any city warning house attendant when such order is made in order to maintain order and safety.

(`89 Code, § 153.080) Penalty, see § 10.99

§ 92.09 BATHING REGULATIONS

No person shall:

(A) Bathe in or enter the water of or adjoining any public park between 11:00 p.m. and 8:00 a.m.;

(B) Enter the water or use any water craft or raft on any pond, ponding area or other body of water not designated as a lake;

(C) All inflated and buoyant devices, floating toys or rafts used by swimmers or non-swimmers to convey themselves in a floating position are prohibited at any public beach area.

(`89 Code, § 153.100) Penalty, see § 10.99

§ 92.10 AIRCRAFT REGULATIONS.

(A) No person shall use any park, lake or any public place for a starting or landing area for any type of aircraft pursuant to M.S. § 360.038, as it may be amended from time to time.

(B) The use of model airplanes and model boats may be restricted by the Manager in regard to the location and time of day that they are used.

(C) The provisions of M.S. § 360.075, as it may be amended from time to time, are adopted and made part of this chapter as if fully set out herein.

(`89 Code, § 153.110) Penalty, see § 10.99

§ 92.11 GENERAL RESTRICTION ON ATHLETICS.

No person shall:

(A) Play or participate in any type of sports or recreational activity in any public park except in or upon appropriate areas established by the city for such game or sport; or

(B) Play upon, use or enter any recreation or sports area without paying a registration or admission fee when one is required by the city.

(`89 Code, § 153.120) Penalty, see § 10.99

§ 92.12 ADDITIONAL RULES AND REGULATIONS.

Additional rules and regulations may be made from time to time by the Council by adoption of ordinances governing the use and enjoyment of public parks, playgrounds, lakes, ponds, streams and public park and recreational facilities. Regulatory signs shall then be prominently posted in places where they are intended to apply. Any person who violates a rule or regulation so posted may be excluded from the use of the park playground, lake, pond, stream or park or recreation facility and may in addition be prosecuted for a misdemeanor.

(`89 Code, § 153.130)

Section

Boulevard Trees

- 93.01 Compliance
- 93.02 Planting of boulevard trees
- 93.03 Type of tree
- 93.04 Size and location
- 93.05 Ownership
- 93.06 Removal or destruction prohibited

BOULEVARD TREES

§ 93.01 COMPLIANCE.

Any person who desires to plant trees on any boulevard which is part of the public street right-of- way shall comply with the provisions of this subchapter.

(`89 Code, § 152.010)

§ 93.02 PLANTING OF BOULEVARD TREES.

No trees shall be planted in any boulevard without a permit from the Department of Community Services.

(`89 Code, § 152.020) Penalty, see § 10.99

§ 93.03 TYPE OF TREE.

The kinds of trees which shall be planted on boulevards are as listed on file in the Department of Community Services. No other types or kinds of trees shall be planted on any boulevard in the city except by permission of the Council.

(`89 Code, § 152.030) Penalty, see § 10.99

§ 93.04 SIZE AND LOCATION.

At the time of planting, no tree shall be smaller in size than one and one-half inches in diameter measured at a point six inches above the ground. Each tree shall be so located on residential streets as to be seven feet onto the boulevard when measured at right angles from the property line. All trees shall be so planted as to be at least 30 feet apart when measured along the street.

(`89 Code, § 152.040)

§ 93.05 OWNERSHIP.

All trees planted on street boulevards become the property of the city.

(`89 Code, § 152.050)

§ 93.06 REMOVAL OR DESTRUCTION PROHIBITED.

No person shall willfully or wrongfully cut, break, injure, remove or destroy any tree located on any public property in the city without a permit from the Department of Community Services.

(`89 Code, § 152.060) Penalty, see § 10.99

CHAPTER 94: STREETS AND SIDEWALKS

Section

Streets

- 94.01 Borderline streets
- 94.02 Depositing of snow, ice, leaves, grass, litter, and other materials on public ground or right-of-way
- 94.03 Notice required in street or alley vacations

Sidewalks

- 94.20 Establishment of sidewalk grade
- 94.21 Snow and ice removal

Right-of-Way Management

- 94.30 Purpose and intent
- 94.31 Election to manage the public rights- of-way
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- 94.34 Registration and right-of-way occupancy
- 94.35 Registration information
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- 94.49 Supplementary notification
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- 94.56 Indemnification and liability
- 94.57 Abandoned and unusable facilities
- 94.58 Appeal
- 94.59 Franchise holders
- 94.60 Miscellaneous items in the right-of- way

STREETS

§ 94.01 BORDERLINE STREETS.

(A) This section shall provide standards, establish uniform practices and implement cooperative administration between the Cities of Maplewood and North St. Paul in all matters pertaining to streets located along their contiguous common borderlines.

(B) Borderline streets shall be maintained and replaced according to an agreement entered into between each municipality.

(C) Any borderline streets or portions thereof which are hereafter constructed shall be constructed by the city from which the request for construction emanates. This provision is intended to mean that if, because of a development in one of the municipalities to which this section pertains, it becomes necessary to construct a portion of a borderline street, that portion of the borderline street shall be constructed and maintained by the municipality in which the development requesting the said construction is taking place; provided, however, that, at the request of either municipality, this matter shall be subject to review and reconsideration so that the portions of borderline streets required to be maintained by the respective municipalities shall be kept fairly equal in number of total lineal feet maintained by each.

(D) All borderline streets shall be constructed so as to conform in design to the specifications of the municipality requiring the highest quality of street section or any component part thereof. The grade, the width of driving surface and the location thereof within the right-of-way shall be subject to approval of both municipalities.

('89 Code, § 150.050)

§ 94.02 DEPOSITING OF SNOW, ICE, LEAVES, GRASS, LITTER, AND OTHER MATERIALS ON PUBLIC GROUND OR RIGHT-OF-WAY.

No person or corporation shall deposit or permit to be deposited onto or into any public street, sidewalk, boulevard, alley or other public ground of the city any snow, ice, dirt, paper, litter, grass clippings, leaves, vegetation or other foreign material, except that sand, salt or ashes may be used for the sole purpose of preventing slipperiness.

('89 Code, § 150.060) (Am. Ord. 695, passed 7-20-2010)

§ 94.03 NOTICE REQUIRED IN STREET OR ALLEY VACATIONS.

In addition to all requirements of the state law, any hearing on a proposed vacation, in whole or in part, or any street or alley shall be preceded by two weeks mailed notice to all property owners within 300 feet of said street or alley. In case of partial vacations, the entire block length shall be the boundary for determining the 300 foot requirement. Notice shall be complete upon mailing, but failure to give mailed notice or any defects in the notice shall not invalidate the proceedings.

(`89 Code, § 150.070)

SIDEWALKS

§ 94.20 ESTABLISHMENT OF SIDEWALK GRADE.

Whenever the Council shall order a sidewalk to be built upon any street or portion thereof, the engineer shall first establish the line and grade thereof, and the sidewalk shall be constructed and thereafter maintained.

(`89 Code, § 151.010)

§ 94.21 SNOW AND ICE REMOVAL.

The following rules and regulations shall apply to snow and ice removal from all city sidewalks:

(A) Except as otherwise established by division (B) of this section, each owner and occupant of any building, in front of which or adjacent to which a sidewalk has been constructed for use by the public, shall clear that sidewalk of snow or ice within 12 hours after said snow or ice has ceased to be deposited thereon. If the snow or ice shall not be removed within 12 hours, the owner or occupant can either be prosecuted for a misdemeanor or the city can give written notice to the owner or occupant demanding removal of the snow or ice within 24 hours from the date set forth in the notice, and upon failure of the owner or occupant to remove the snow or ice within said period, the city may have the work done either by its employees or by contract, and the cost of said work shall then be billed against the owner or occupant. If the owner or occupant shall fail to pay the bill within 30 days, the Council may then assess the amount due, plus interest, against the property. Once written notice has been given to the owner or occupant, no subsequent storm or condition can effect that notice except that the time for compliance shall be continued until 12 hours after said new snow or ice have ceased to be deposited thereon. Once written notice has been given, and before compliance, any subsequent snow or ice shall be deemed to be included in said notice;

(B) The Council may by resolution, and after a hearing, designate that certain sidewalks within the city shall be kept clean of snow and ice by the city, thereby relieving the owner or occupant of that duty, and the city shall keep records of all expenses, including legal, and in August of each year shall bill each owner or occupant for their share or any part thereof of all expenses incurred by the city. If the owner or occupant shall fail to pay the bill as submitted by the city within 30 days, the Council may then assess the amount, plus interest, against the property;

(C) Conditions:

- (1) Winds of less than 15 mph shall not be considered sufficient cause for not keeping sidewalks clear of snow and ice;
- (2) Written notice shall be sent to: both owners and occupants where the property is used for industrial, commercial and residential purposes; to owners where the property is used for apartments or duplexes or where the property is vacant;
- (3) Property ownership for the purposes of this section shall be determined by the city the same way property ownership is determined for assessment purposes;
- (4) For the purposes of this section all sidewalks located on or next to a public street or alley shall be considered for public use and shall be controlled by this section;

(D) This section shall not be construed to affect the responsibility or liability of the property owners for damages to persons or property because of the condition of the sidewalk. The city shall not be held as assuming any such liability by reason of its removing the snow or ice under this section. If the city decides to assume the liability when it does the snow or ice removal, the cost of insurance covering such operations shall be considered as a cost to be paid by the property owners.

(`89 Code, § 151.030) Penalty, see § 10.99

§ 94.30 PURPOSE AND INTENT.

(A) To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. Accordingly, the city hereby enacts this chapter of the code relating to right-of-way permits and administration. This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

(B) This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in M.S. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and the other laws governing applicable rights of the city and users of the right-of-way. This chapter shall also be interpreted consistent with Minn. Rules 7819.0050 - 7819.9950 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

(Ord. 754, passed 9-6-2016)

§ 94.31 ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant M.S. 237.163 Subd. 2(b), to manage rights-of-way within its jurisdiction.

(Ord. 754, passed 9-6-2016)

§ 94.32 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

ABANDONED FACILITY. A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

APPLICANT. Any person requesting permission to excavate or obstruct a right-of-way.

CITY. The city of North St. Paul Minnesota. For purposes of § 94.56, **CITY** means its elected officials, officers, employees and agents.

COMMISSION. The State Public Utilities Commission.

CONGESTED RIGHT-OF-WAY. A crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with M.S. § 216D.04. Subd. 3, over a continuous length in excess of 500 feet.

CONSTRUCTION PERFORMANCE BOND. Any of the following forms of security provided at permittee's option:

- (1) Individual project bond;
- (2) Cash deposit;
- (3) Security of a form listed or approved under M.S. § 15.73, Subd. 3;
- (4) Letter of credit, in a form acceptable to the city;

(5) Self-insurance, in a form acceptable to the city;

(6) A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

DEGRADATION. A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

DEGRADATION COST. Subject to Minn. Rules 7819.1100, the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minn. Rules 7819.9900 to 7819.9950.

DEGRADATION FEE. The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

DEPARTMENT. The Department of Public works of the city.

DEPARTMENT INSPECTOR. Any person authorized by the city to carry out inspections related to the provisions of this chapter.

DELAY PENALTY. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

EMERGENCY. A condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

EQUIPMENT. Any tangible asset used to install, repair, or maintain facilities in any right-of-way.

EXCAVATE. To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

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 described in such permit.

EXCAVATION PERMIT FEE. Money paid to the city by an applicant to cover the costs as provided in § 94.40.

FACILITY or FACILITIES. Any tangible asset in the right-of-way required to provide utility service.

FIVE-YEAR PROJECT PLAN. Shows projects adopted by the city for construction within the next five years.

HIGH DENSITY CORRIDOR. A designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

HOLE. An excavation in the pavement, with the excavation having a length less than the width of the pavement.

LOCAL REPRESENTATIVE. A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

MANAGEMENT COSTS. The actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; M.S. §§ 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to § 94.58.

OBSTRUCT. To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

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 that right-of-way, for the duration specified therein.

OBSTRUCTION PERMIT FEE. Money paid to the city by a permittee to cover the costs as provided in § 94.40.

PATCH or PATCHING. A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's five-year project plan.

PAVEMENT. Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

PERMIT. The meaning given "right-of-way permit" in M.S. § 237.162.

PERMITTEE. Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

PERSON. An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

REGISTRANT. Any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

RESTORE or RESTORATION. The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

RESTORATION COST. The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

PUBLIC RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.

RIGHT-OF-WAY PERMIT. Either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

RIGHT-OF-WAY USER. Either: (1) a telecommunications right-of-way user as defined by M.S. § 237.162, Subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

SERVICE or UTILITY SERVICE. Any of the following: (1) those services provided by a public utility as defined in M.S. 216B.02, Subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in M.S. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under M.S. Chapter 308A; and (6) water, and sewer, including service laterals, steam, cooling or heating services.

SERVICE LATERAL. An underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

SUPPLEMENTARY APPLICATION. An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

TEMPORARY SURFACE. The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's two-year plan, in which case it is considered full restoration.

TRENCH. An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

TELECOMMUNICATION RIGHT-OF-WAY USER. A person owning or controlling a facility in the right-of-way, or seeking to own or control a Facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under M.S. Chapter 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined

in M.S. § 216B.02, a municipality, a municipal gas or power agency organized under M.S. Chapter 453 and 453A, or a cooperative electric association organized under M.S. Chapter 308A, are not telecommunications right-of-way users for purposes of this chapter.

TWO YEAR PROJECT PLAN. Projects adopted by the city for construction within the next two years.

(Ord. 754, passed 9-6-2016)

§ 94.33 ADMINISTRATION.

The city engineer (or Director of Public Works) is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The city engineer (or Director of Public Works) may delegate any or all of the duties hereunder.

(Ord. 754, passed 9-6-2016)

§ 94.34 REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

(A) *Registration.* Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the city. Registration will consist of providing application information and paying a registration fee.

(B) *Registration prior to work.* No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.

(C) *Exceptions.* Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the 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 such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the M.S. Chapter 216D, Gopher One Call Law.

(Ord. 754, passed 9-6-2016)

§ 94.35 REGISTRATION INFORMATION.

(A) *Information required.* The information provided to the city at the time of registration shall include, but not be limited to:

(1) Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self-insurance acceptable to the city;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(d) Requiring that the city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

(4) The city may require a copy of the actual insurance policies.

(5) If the person is a corporation, a copy of the certificate is required to be filed under M.S. 300.06 as recorded and certified to by the Secretary of State.

(6) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.

(B) *Notice of changes.* The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within 15 days following the date on which the registrant has knowledge of any change.

(Ord. 754, passed 9-6-2016)

§ 94.36 REPORTING OBLIGATIONS.

(A) *Operations.* Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city. Such 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.

The plan shall include, but not be limited to, the following information:

(1) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and

(2) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

(3) The term "project" in this section shall include both next-year projects and five-year projects.

(4) By January 1 of each year, the city will have available for inspection in the city's office a composite list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed 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 such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

(B) *Additional next-year projects.* Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

(Ord. 754, passed 9-6-2016)

§ 94.37 PERMIT REQUIREMENT.

(A) *Permit required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so.

(1) *Excavation permit.* An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) *Obstruction permit.* An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(B) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

(C) *Delay penalty.* In accordance with Minn. Rule 7819.1000, Subp. 3 and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

(D) *Permit display.* Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

(Ord. 754, passed 9-6-2016)

§ 94.38 PERMIT APPLICATIONS.

Application for a permit is made to the city. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

(A) Registration with the city pursuant to this chapter;

(B) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.

(C) Payment of money due the city for:

(1) Permit fees, estimated restoration costs and other management costs;

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;

(4) Franchise fees or other charges, if applicable.

(D) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.

(E) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

(Ord. 754, passed 9-6-2016)

§ 94.39 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.

(B) *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

(Ord. 754, passed 9-6-2016)

§ 94.40 PERMIT FEES.

(A) *Excavation permit fee.* The city shall establish an Excavation permit fee in an amount sufficient to recover the following costs:

(1) The city management costs;

(2) Degradation costs, if applicable.

(B) *Obstruction permit fee.* The city shall establish the obstruction permit fee and shall be in an amount sufficient to recover the city management costs.

(C) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay such fees within 30 days of billing.

(D) *Non refundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in § 94.50 are not refundable.

(E) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(F) *Fee resolution.* Fees will be set from time to time by ordinance by City Council.

(Ord. 754, passed 9-6-2016)

§ 94.41 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 94.44.

(B) *Patch and restoration.* Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with correcting the defective work.

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rule 7819.3000.

(3) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

(C) *Standards.* The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule 7819.1100.

(D) *Duty to correct defects.* The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under § 94.44.

(E) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(Ord. 754, passed 9-6-2016)

§ 94.42 JOINT APPLICATIONS.

(A) *Joint application.* Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time. Joint applications shall name a primary registrant as a single contact and holder of restoration and permit closure responsibilities.

(B) *Shared fees.* Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(C) *With city projects.* Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

(Ord. 754, passed 9-6-2016)

§ 94.43 SUPPLEMENTARY APPLICATIONS.

(A) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

(B) *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

(Ord. 754, passed 9-6-2016)

§ 94.44 OTHER OBLIGATIONS.

(A) *Compliance with other laws.* Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to M.S. § 216D.01-.09 (Gopher One Call Excavation Notice System) and Minn. Rules Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(B) *Prohibited work.* Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

(C) *Interference with right-of-way.* A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

(D) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in M.S. Chapter 216D and Minn. Rules Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the city.

(Ord. 754, passed 9-6-2016)

§ 94.45 DENIAL OF PERMIT.

The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

(Ord. 754, passed 9-6-2016)

§ 94.46 INSTALLATION REQUIREMENTS.

(A) The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent

with the M.S. § 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minn. Rules Chapter 7560 and these sections. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in § 94.51(B).

(B) All traffic control will comply with the current edition of the "MnDOT Field Traffic Control Manual".

(Ord. 754, passed 9-6-2016)

§ 94.47 INSPECTION.

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules 7819.1300.

(B) *Site inspection.* Permittee shall make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *Authority of city.*

(1) At the time of inspection, the city may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(2) The city may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the city that the violation has been corrected. If such proof has not been presented within the required time, the city may revoke the permit pursuant to Sec. 1.22.

(Ord. 754, passed 9-6-2016)

§ 94.48 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations.* Each registrant shall immediately notify the city of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(1) If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency.

(2) In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(B) *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

(Ord. 754, passed 9-6-2016)

§ 94.49 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

(Ord. 754, passed 9-6-2016)

§ 94.50 REVOCATION OF PERMITS.

(A) *Substantial breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 1.19.

(B) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

(Ord. 754, passed 9-6-2016)

§ 94.51 MAPPING DATA.

(A) (1) *Information required.* Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. Rules 7819.4000 and 7819.4100. Within one calendar year following completion of any work pursuant to a permit, the permittee shall provide the city accurate maps or drawings certifying the "as built" location of all equipment installed, owned and maintained by the permittee in both digital and hard copy. As built drawings shall be submitted in the following three\ forms:

- (a) Digital: CAD or GIS (dwg or shp).
- (b) Digital: Image file (pdf, jpg, etc.).
- (c) Hard copy.

(2) Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the city. Failure to provide maps and drawings pursuant to this division shall be grounds for revoking the permit holder's registration.

(B) *Service laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. Rules 7560.0150 , Subp. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the city reasonably requires it. This shall include, but not be limited to demonstrating to the satisfaction of the city a passing continuity test and satisfaction that tracer wire installation is acceptable and in conformance with current city specifications and standard details. Permittees or their subcontractors shall submit to the city evidence satisfactory of the installed service lateral locations. Compliance with this division (B) and with applicable Gopher State One Call law and Minnesota Rules governing service laterals install after December 31, 2005, shall be a condition of any city approval necessary for: 1) payments to contractors working on a public improvement project including those under M.S. Chapter 429; and 2) city approval of performance under development agreements, or other subdivision or site plan approval

under M.S. Chapter 462. The city shall reasonably determine the appropriate method of providing such information. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

(C) *As built.* As built will be required in hard copy and electronically if the project permitted deviates two feet or more from the original plans submitted to the city. Failure to submit an as built will be a certification by the permittee that the project as constructed does not deviate two feet or more from the original plan submitted.

(Ord. 754, passed 9-6-2016)

§ 94.52 LOCATION AND RELOCATION OF FACILITIES.

(A) Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minn. Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

(B) (1) *Corridors.* The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(2) Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

(C) *Nuisance.* One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

(D) *Limitation of space.* To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

(Ord. 754, passed 9-6-2016)

§ 94.53 PRE-EXCAVATION FACILITIES LOCATION.

In addition to complying with the requirements of M.S. § 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

(Ord. 754, passed 9-6-2016)

§ 94.54 DAMAGE TO OTHER FACILITIES.

The provisions of M.S. 216D shall apply to all situations involving damages to facilities during excavation operations. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

(Ord. 754, passed 9-6-2016)

§ 94.55 RIGHT-OF-WAY VACATION.

Reservation of right. If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules 7819.3200.

(Ord. 754, passed 9-6-2016)

§ 94.56 INDEMNIFICATION AND LIABILITY.

By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250.

(Ord. 754, passed 9-6-2016)

§ 94.57 ABANDONED AND UNUSABLE FACILITIES.

(A) *Discontinued operations.* A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.

(B) *Removal.* Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

(Ord. 754, passed 9-6-2016)

§ 94.58 APPEAL.

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with M.S. § 237.163, Subd. 6; or (5) disputes a determination of the city regarding § 94.51(B) may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request within 45 days of receipt, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. 754, passed 9-6-2016)

§ 94.59 FRANCHISE HOLDERS.

If there is a conflict in language between the franchise of a person holding a franchise agreement with the city and this section, the terms of the franchise shall prevail.

(Ord. 754, passed 9-6-2016)

§ 94.60 MISCELLANEOUS ITEMS IN THE RIGHT-OF-WAY.

(A) Unless authorized by this chapter, no privately owned structure, sign or vending machine shall be located within a public right of way.

(B) *Newspaper vending machines.*

(1) *Notification to city.* No newspaper vending machine may be placed or maintained in a public right-of-way without the approval of the City Manager or his or her designee, in writing, of the location of the vending machine.

(2) Requests for newspaper vending machine placement shall be made to the City Manager or his or her designee in writing by the publisher.

(3) *Placement conditions.* When considering a request, the City Manager or his or her designee shall take into consideration the following:

(a) *Distance from roadway.* A newspaper vending machine may be placed no nearer than four feet from the roadway curb or the edge of the roadway where no curb exists and shall not obstruct a pathway.

(b) *Maximum size.* The maximum size of a newspaper vending machine shall be four feet high, two feet long and two feet deep.

(c) *Number of machines.* No more than one newspaper vending machine per newspaper publisher may be placed within 800 feet of any other newspaper vending machine of that same newspaper publisher.

(d) *Attachment to public facility prohibited.* No newspaper vending machine may be attached to a public facility such as a utility pole, roadway sign or fireplug.

(e) *Color and identification.* A newspaper vending machine shall be of a single color except for lettering on the machine which shall not exceed four inches in height. Such lettering shall identify the newspaper only and shall not be an advertising sign.

(f) *Removal.* At the request of the City Manager, a newspaper vending machine shall be removed in order to permit right-of-way improvements or maintenance, if its location is a safety hazard or if the vending machine significantly interferes with pedestrian or vehicular traffic on the right-of-way.

(g) *Residential areas.* No newspaper vending machine may be placed in a public right-of-way adjacent to a property zoned residential and containing four residential units or less.

(4) *Abatement of non-conforming newspaper vending machines.* Newspaper vending machines deemed by the city to be non-conforming to the considerations of this subchapter shall be removed by the publisher upon request of the city. If after 30 days the city's request to remove has not been fully acted upon by the publisher, the city may remove it and notify the publisher in writing that it may be picked up.

(C) *Dumpsters, roll-Offs or similar waste receptacles.* No dumpster, roll-off, tub, moving containers such as PODs, or similar receptacle intended to contain waste, construction debris, and the like, may be placed or permitted to stand on any public right-of-way without a permit from the city, pursuant to Chapter 110. Clean up of the placement site and or any damage to public right-of-way shall be the responsibility of the contractor. All receptacles must have a two-inch wide reflective band three feet up from the bottom of receptacle on all four sides (or approved equal). The contractor shall make all necessary efforts to assure the material integrity of streets, alleys and public rights-of-way. This may include the placement of boards or similar product to prevent damage. The city reserves the right to limit placement and or the number of days allowed.

(D) *Rain gardens.* Rain gardens shall be allowed in the right-of-way to the extent that they are allowed by and comply with the provisions of § 154.010.

(Ord. 754, passed 9-6-2016)

CHAPTER 95: ANIMALS

Section

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GENERAL PROVISIONS

§ 95.01 DEFINITIONS.

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

ANIMAL. An animal of any kind, domestic or nondomestic.

ANIMAL WARDEN. Any person or persons appointed by the Manager as Animal Warden or deputies to enforce the provisions of this chapter.

AT LARGE. Any licensed or unlicensed animal within the city, except:

- (1) Any licensed domestic animal on a leash when under the physical control of any person;
- (2) Any licensed domestic animal within any motor vehicle; and
- (3) Any licensed domestic animal upon the premises of the owner or harbinger thereof.

DOG. All dogs, male and female, spayed or unspayed of any age.

DOG KENNEL. Any location where more than two dogs being kept for personal use or for sale. Puppies less than three months old are exempt.

DOMESTIC ANIMALS. All dogs and cats, male and female, spayed or unspayed of any age.

EXOTIC PETS/NON-DOMESTIC ANIMALS. Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(4) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, or squirrel.

(5) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(6) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

FARM ANIMALS. Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, **FARM ANIMALS** shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch or stable.

OWNER. Any person owning, harboring or keeping an animal of any kind.

('89 Code, § 173.010) (Am. Ord. 712, passed 11-15-2011)

§ 95.02 LICENSE AND REGISTRATION REQUIRED.

(A) All domestic animals kept, harbored or maintained by their owners in the city shall be licensed and registered. Domestic animal licenses shall be issued by the City Manager upon payment of a license tax to be established by Council ordinance for each domestic animal. The owner shall state at the time application is made for such license and upon printed forms provided for such purpose the name and address and the name, breed, color and sex of each domestic animal owned or kept and shall provide evidence of compliance with the requirements of § 95.16. The provisions of this section shall not be intended to apply to domestic animals whose owners are visitors temporarily within the city for a period of less than 60 days, nor to domestic animals brought into the city for the purpose of participating in any domestic animal show, nor to "seeing eye" dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

(B) All licenses shall be valid for one year from each January 1 to the following December 31. License applications may be made from January 1 through March 31 each year without penalty. When application is made after March 31 for any animal subject to licensing prior to that date, an additional fee shall be charged for the license. The additional fee herein prescribed is assessed to cover the additional costs of administration and not as a penalty, and the payment of such a fee shall not exempt any owner from any penalties imposed for any violation of this subchapter.

('89 Code, § 173.030)

§ 95.03 TAG.

Upon payment of the license fee, the City Manager shall issue to the owner a license certificate and a metallic tag for each domestic animal so licensed. The tag shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Every owner shall see that the tag is constantly worn by the domestic animal. In case a tag is lost or destroyed, a duplicate will be issued by the City Manager upon presentation of a receipt showing the payment of the license fee for the current year and the payment of a fee for such duplicate. Tags shall not be transferable from one domestic animal to another, and no refunds shall be made on any license fee because of death of or the owners leaving the city before expiration of the license period.

('89 Code, § 173.040)

§ 95.04 TRAPPING LICENSE.

(A) No person shall engage in trapping of animals within the city without obtaining a special single use license from the City Manager for control of nuisance animals.

(B) No traps shall be sold to or purchased by any person under 18 years of age.

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

TRAP. Any mechanical device or snare which seeks to hold, capture or kill an animal.

TRAPPING. The setting, laying, using or having in possession, except at their own home or in their own motor vehicle, a trap, unless authorized by this section.

(D) This section shall not apply to traps specifically designed to kill rats, mice, gophers or moles, nor does it apply to cage-type live traps employed for the control of nuisance animals as long as such traps are tended to each 12 hours.

(`89 Code, § 173.230) Penalty, see § 10.99

REGULATIONS

§ 95.15 RUNNING AT LARGE.

(A) The running at large of any animal in the city is declared to be a nuisance and is prohibited. A person who owns, harbors, or keeps a domestic animal that runs at large shall be guilty of a misdemeanor.

(B) Any such animals found running at large shall be impounded, and a notice of impounding posted as provided for dogs in § 95.40. Sale of impounded animals shall proceed as provided for dogs in § 95.41.

(C) Animals may be redeemed prior to their sale or disposition by the owner upon payment to the City Manager of a fee to be determined by Council Ordinance.

(`89 Code, § 173.020) (Am. Ord. 712, passed 11-15-2011) Penalty, see § 10.99

§ 95.16 VACCINATIONS.

It shall be unlawful for the owner of any domestic animal to keep or maintain such unless it shall have been vaccinated by a licensed veterinary surgeon with anti-rabies vaccine, currently valid for the license period for which such is kept or maintained. No license provided for herein shall be issued except upon compliance with this section.

(`89 Code, § 173.070) Penalty, see § 10.99

§ 95.17 BITING ANIMALS.

(A) It is unlawful for an owner to fail to restrain an animal from biting any person, whether or not the owner is present at the time of the bite. Whenever any person owning an animal within the city shall learn that such animal has bitten any human being, such person shall immediately impound said animal in a place of confinement where it cannot escape or have access to any human being or other animal and shall also immediately notify the Chief of Police.

(B) The Chief of Police when informed that an animal has bitten any human being shall ascertain the identity of such animal and the person owning or harboring and shall immediately direct such person to immediately impound such animal as herein required. The Chief of Police shall also immediately notify the Manager of the place where the animal is impounded.

(C) Any animal which has bitten a human being shall be impounded continuously for ten days. The Manager or designee shall inspect said animal from time to time during its period of confinement and determine whether such animal is infected with rabies. For this purpose he or she shall have access to the premises where such animal is kept at all reasonable hours and may take possession of the animal and confine it in the city pound or other suitable place at the expense of the owner. The owner or person in possession or harboring such animal shall immediately notify the Manager or designee of any evidence of sickness or disease in the animal during its

period of confinement and shall promptly deliver its carcass to the Manager or designee in case of its death during such period.

('89 Code, § 173.110) Penalty, see § 10.99

§ 95.18 DISEASED ANIMALS.

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a police officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

Penalty, see § 10.99

§ 95.19 DANGEROUS ANIMALS.

(A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

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

(1) ***DANGEROUS ANIMAL.*** An animal which has:

- (a) Caused bodily injury or disfigurement to any person on public or private property;
- (b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
- (c) Exhibited unusually aggressive behavior, such as an attack on another animal;
- (d) Bitten one or more persons on two or more occasions; or

(e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) ***POTENTIALLY DANGEROUS ANIMAL.*** An animal which has:

- (a) Bitten a human or a domestic animal on public or private property;
- (b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- (c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

(3) ***PROPER ENCLOSURE.*** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum

specifications:

(a) Have a minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

(4) **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(F) *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Manager's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(3) No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

Penalty, see § 10.99

§ 95.20 MUZZLING OF ANIMALS.

Whenever the Manager or designee shall so request in writing stating reasons, the Mayor shall issue a proclamation ordering every person owning an animal to muzzle it. No person shall violate such proclamation, and any unmuzzled animal running at large during the time fixed in the proclamation shall be killed by the police without any notice to the owner.

(`89 Code, § 173.120)

§ 95.21 INTERFERENCE WITH OFFICERS AND ANIMAL WARDENS.

No person shall take or attempt to take from any officer or Animal Warden any animal taken up in compliance with this chapter or in any manner interfere with or hinder such officer or Animal Warden in the discharge of duties under this chapter.

(`89 Code, § 173.130) Penalty, see § 10.99

§ 95.22 GIFTS OF CERTAIN ANIMALS PROHIBITED.

No person not duly licensed to operate a pet shop by the Council shall give away baby chickens, baby ducks, other unmatured small fowl or baby rabbits as prizes or pets.

(`89 Code, § 173.140) Penalty, see § 10.99

§ 95.23 EXOTIC PETS/NON-DOMESTIC ANIMALS/FARM ANIMALS.

No person shall harbor any exotic pets, non- domestic pets, or farm animals, nor build, maintain or use a structure for the keeping of such animals within the city limits.

(Am. Ord. 712, passed 11-15-2011) Penalty, see § 10.99

§ 95.24 HUMANE CARE.

(A) All owners shall provide their animal with sufficient food and water, proper shelter, veterinary care when needed to prevent suffering and with humane care and treatment. No person shall poison, ill treat or abandon any animal. Unwanted animals may be given to the Animal Warden at no cost to the owner.

(B) Whenever the Animal Warden encounters a stray animal suffering pain, he or she shall act promptly to notify the owner. If unable to ascertain or locate the owner, he or she may take the animal to a veterinarian for treatment or to the pound for disposition. The cost of any care or treatment shall be borne by the owner.

(`89 Code, § 173.190) Penalty, see § 10.99

§ 95.25 DOG KENNELS; LICENSE REQUIRED.

(A) *Definition of **KENNEL***. The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a **KENNEL** except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a **KENNEL**.

(B) *Certain kennels are nuisances*. Because the keeping of six or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of six or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel with six or more dogs within the city.

(C) *Kennel permit*. An annual kennel permit is required before three or more dogs may be kept on the same premises. The permit shall be obtained from the City Clerk. The annual fee for a kennel permit shall be established by ordinance. Persons operating or maintaining a kennel as defined by M.S. § 347.31, Subd. 2, as it may be amended from time to time, shall also obtain a kennel license from the state Board of Animal Health before being issued a kennel permit by the city.

(D) Kennels shall be kept in a clean and sanitary manner, all animals shall be treated humanely, and the owners or operators of all kennels shall follow all of the provisions of Minn. Rules parts 1720.1400 to 1720.1550, as they may be amended from time to time.

(E) A kennel permit may be revoked by the City Council if a kennel is not kept in a clean and sanitary manner, if the animals are not treated humanely, if the kennel does not comply with the above cited rules, or if any other provision of this subchapter is violated, including the prohibition of habitual barking and the requirement to clean up litter.

(F) Any person, firm or corporation who violates any provision of this subchapter shall, upon conviction, be guilty of a misdemeanor, and the penalty which may be imposed shall be that in § 10.99.

(`89 Code, § 173.220) Penalty, see § 10.99

§ 95.26 NUISANCES.

(A) Every owner of a domestic animal shall exercise proper care and control of the animal to prevent the animal from becoming a public nuisance. Molesting passers-by; chasing persons, vehicles, bicycles, skateboarders, roller skaters and the like; attacking persons or other domestic animals; damaging property; running at large; or similar acts performed by animals shall be deemed a nuisance.

(B) Also, every person who takes a domestic animal off the property where it is boarded shall have on his or her person materials to remove excretory matter that the domestic animal may deposit, and that person is also responsible to see that such matter is picked up and properly disposed of, and a failure to have such material on his or her person or to pick up excretory matter so deposited shall be deemed a nuisance.

(`89 Code, § 173.090)

(C) 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 five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

ADMINISTRATION AND ENFORCEMENT

§ 95.40 IMPOUNDING.

The Animal Warden may, when necessary, apprehend any domestic animal found running at large and impound or cause a notice of violation of this order to be issued to the owner. The Pound Master, upon receiving any domestic animal, shall make a complete registry, entering the breed, color and sex of such and whether licensed. If licensed, he or she shall enter the name and address of the owner and number of the license tag.

(`89 Code, § 173.050)

§ 95.41 NOTICE TO OWNER AND REDEMPTION.

Forthwith upon the impounding of any licensed or unlicensed domestic animal the owner shall be notified. The owner of any domestic animal so impounded may reclaim such upon payment of any unpaid license fee, any fine and all costs and charges incurred for impounding, maintenance or treatment of such domestic animal. If, at the expiration of the times specified in § 95.45 from the date of notice, or of impoundment if ownership cannot be ascertained, such domestic animal shall not have been redeemed, it may be disposed of according to law.

(`89 Code, § 173.060) (Am. Ord. 712, passed 11-15-2011)

§ 95.42 ANIMAL WARDEN AND DEPUTIES.

The Manager is empowered with the consent of the Council to contract for Animal Warden and impounding service to enforce this chapter, except §§ 95.04 and 95.27. The Manager shall designate the Animal Warden and deputies, and they shall have police powers to cite owners of animals for violations of this code in addition to their power of impounding.

(`89 Code, § 173.080)

§ 95.43 OFFICERS MAY KILL ANIMALS.

Police officers are authorized and empowered to kill any animal found in violation of this chapter whenever such animal cannot be safely taken up and impounded. No impounding or killing of any animal shall exempt the owner or harbinger of such animal from the penalties provided in this code.

(`89 Code, § 173.100)

§ 95.44 MANAGER AUTHORIZED TO CONTRACT FOR POUNDING SERVICES.

The Manager is authorized to contract for necessary pounding services on behalf of the city. Such services shall only be used by the city where necessary for proper enforcement of the law or where a safety hazard exists.

(`89 Code, § 173.200)

§ 95.45 LIEN FOR POUNDING AND TRANSPORTATION COSTS AND NOTICES.

(A) The city may impound any animal where necessary for the proper enforcement of the law or where a safety hazard exists. No animal which has been impounded shall be released to the owner or custodian until all reasonable pounding and transportation costs have been paid and the authorized person having charge of the impounded animal shall have a lien for such costs.

(B) In all cases where an animal is impounded, the owner, if known, or the custodian, if the owner is unknown, shall be immediately notified. If the owner or custodian be unknown and cannot by reasonable effort be ascertained or shall not, after notice, redeem such animal by paying the expenses incurred as aforesaid, it may be treated as an estray and be dealt with as such. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal in which case it shall be kept for seven regular business days and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section.

(`89 Code, § 173.210)

CHAPTER 96: HAZARDOUS MATERIALS AND LIQUIDS

Section

Responsibility for Cleanup of Hazardous, Inflammable or Toxic Materials of Liquids

96.01 Improper storage, spilling or dumping

- 96.02 Owner's of property liable
- 96.03 Unpaid charges lien against property
- 96.04 Responsibility of owner or renter of property; exemption

Application of Lawn Fertilizer and Other Chemicals

- 96.15 License required
- 96.16 License application procedure
- 96.17 Conditions of license
- 96.18 General regulations

RESPONSIBILITY FOR CLEANUP OF HAZARDOUS, INFLAMMABLE OR TOXIC MATERIALS OF LIQUIDS

§ 96.01 IMPROPER STORAGE, SPILLING OR DUMPING.

(A) No person, firm or corporation shall cause or allow any hazardous, inflammable or toxic material or liquid to be improperly stored, spilled or dumped upon any premises owned or occupied by said person, firm or corporation.

(`89 Code, § 139.010)

(B) No person, firm or corporation shall dump or spill any hazardous, inflammable or toxic material or liquid upon any private or public property.

(`89 Code, § 139.020) Penalty, see § 10.99

§ 96.02 OWNER'S OF PROPERTY LIABLE.

Any person, firm or corporation who owns property upon which any hazardous, inflammable or toxic material or liquid is spilled, dumped or improperly stored shall be liable to the city for any material or labor provided by the city, its Police Department, Fire Department or Public Works Department in cleaning it up or removing it from the property; the same is declared to be a nuisance.

(`89 Code, § 139.030)

§ 96.03 UNPAID CHARGES LIEN AGAINST PROPERTY.

Any unpaid charges for the cleanup or removal of hazardous, inflammable or toxic materials or liquids shall be a lien against the property that shall be collected as a special assessment as provided by M.S. Chapter 429, as it may be amended from time to time.

(`89 Code, § 139.040)

§ 96.04 RESPONSIBILITY OF OWNER OR RENTER OF PROPERTY; EXEMPTION.

Any person, firm or corporation who owns or rents property upon which any hazardous, inflammable or toxic material or liquid is used or stored shall identify said materials routinely used or stored at the property, identify safety measures used to prevent spills and other releases to the environment and identify the proper methods of disposal to be used to the city in an annual hazardous materials report. Inflammable materials or liquids in containers of less than ten gallon size shall be exempt from this reporting requirement.

(`89 Code, § 139.050)

APPLICATION OF LAWN FERTILIZER AND OTHER CHEMICALS

§ 96.15 LICENSE REQUIRED.

No person, firm, corporation or franchise shall engage in the business of commercial lawn fertilizer or chemical applicators within the city unless a license has been obtained from the City Manager as provided herein.

(`89 Code, § 140.010) Penalty, see § 10.99

§ 96.16 LICENSE APPLICATION PROCEDURE.

(A) Applications for a commercial lawn fertilizer applicator license for a calendar year shall be submitted to the City Manager at least 30 days prior to the initial lawn fertilizer or chemical application each year within the city.

(B) The application shall consist of the following:

(1) *Application form.* Application forms shall be provided by the city and shall include the following information:

(a) Name, address and telephone number of applicant and any individuals authorized to represent the applicant;

(b) Description of lawn fertilizer and other chemical formulas proposed to be applied on lawns within the city;

(c) A time schedule for application of lawn fertilizer and other chemicals and identification of weather conditions acceptable for lawn fertilizer and other chemical application;

(2) *Fertilizer and other chemical analysis.* A chemical analysis of the lawn fertilizer and other chemicals to be applied certified by an independent testing laboratory shall be given to the city each year when requesting a new license;

(3) *License fee.* The annual license fee for a commercial lawn fertilizer applicator shall be set by Council ordinance. The license shall expire on the December 31 of the year for which it was granted. The license fee shall not be prorated;

(C) *Liability bond.* A bond in the amount of \$1,000 shall be submitted with the application form. The bond shall be conditioned upon compliance with the city code. Actions to collect bond proceeds shall not prevent the city from filing criminal complaints for ordinance violations.

(`89 Code, § 140.020)

§ 96.17 CONDITIONS OF LICENSE.

Commercial lawn fertilizer applicator licenses shall be issued subject to the following conditions which shall be specified on the license form.

(A) *Random sampling.* Commercial lawn fertilizer applicators shall permit the city to sample any commercial lawn fertilizer or other chemical application to be applied within the city at any time after issuance of the initial license.

(B) *Possession of license.* The commercial lawn fertilizer application license or copy thereof shall be in the possession of any party employed by the commercial lawn fertilizer applicator when making lawn fertilizer or other chemical application within the city.

(C) *State regulations.* Licensee shall comply with the provisions of the Minnesota Fertilizer and Soil Conditioner Law as contained in M.S. Chapter 18C, as it may be amended from time to time.

(D) *Sign.* A state approved universal sign, no less than three inches by three inches and attached to a wire or stick not less than 12 inches in height shall be placed on the lawn after application of the lawn fertilizer or other chemical and shall remain there at least for 48 hours. The sign shall state, to the effect: Warning - lawn fertilizer or other chemical has been applied to this lawn by - followed by the name of the licensee.

(`89 Code, § 140.030)

§ 96.18 GENERAL REGULATIONS.

(A) *Time of application.* Lawn fertilizer or other chemicals shall not be applied when the ground is frozen or between November

15 and April 15 of the succeeding year.

(B) *Sample analysis cost.* The cost of analyzing fertilizer or other chemical samples taken from commercial applicators shall be paid by the commercial applicators if the sample analysis indicates that the phosphorus content exceeds the levels authorized herein.

(C) *Fertilizer content.* No person, firm, corporation or franchise, including homeowners and renters, shall apply liquid fertilizer or other chemicals within the city which contains more than ½% by weight of phosphorus or granular fertilizer or other chemical which contains more than 3% by weight of phosphorus, unless the single application is less than or equal to 0.10 pounds of phosphorus per 1,000 square feet in the form of P205. Annual application amount shall not exceed 0.5 pounds of phosphorus per 1,000 square feet of lawn area.

(D) *Impervious surfaces.* No person, firm, corporation or franchise shall apply fertilizer or other chemicals intended for lawn care to impervious surfaces.

(E) *Buffer zone.* Fertilizer and other chemical application shall not be made within ten feet of any wetland or water resource.

(F) *Wind conditions.* No person, firm, corporation or franchise, including homeowners and renters, shall apply liquid fertilizer or other chemicals if it would cause measurable and observable drift of spray onto nontargeted site area.

(`89 Code, § 140.040) Penalty, see § 10.99

CHAPTER 97: DRUGS, NARCOTICS, POISONS AND CHEMICALS

Section

97.01 Pharmacy Practice Act of 1988 and Uniform Controlled Substances Act

97.02 Possession of injection implements

97.03 Prohibiting inhalation of chemicals

97.04 Sale or possession

97.05 Restriction of sales to minors

97.06 Permanent records of sale or transfer

97.07 Self-service displays prohibited

97.08 Organized model classes excluded

97.09 Menace to public welfare

§ 97.01 PHARMACY PRACTICE ACT OF 1988 AND UNIFORM CONTROLLED SUBSTANCES ACT.

The provisions of M.S. Chapters 151 and 152, each as amended by subsequent laws of the State of Minnesota, are adopted as part of a Drug, Narcotics, Poisons and Chemicals Ordinance regulating the transfer of possession, possession and use of drugs, narcotics, poisons and chemicals within the city and are incorporated in and made a part of this chapter as completely as if set out here in full.

(`89 Code, § 133.010)

§ 97.02 POSSESSION OF INJECTION IMPLEMENTS.

No person or persons except dealers or salespersons in surgical instruments, registered pharmacies, licensed pharmacists, licensed doctors of medicine, doctors of osteopathy duly licensed to practice medicine, licensed doctors of dentistry, licensed doctors of veterinary medicine or nurses or interns in any licensed hospital or other licensed institutions wherein sick and injured persons are cared for or treated or bona fide hospitals wherein animals are treated, when under the direction and supervision of a licensed doctor as defined above, shall at any time have or possess any hypodermic syringe or needle or any instrument or implement adapted for the use of cocaine or narcotic drugs by subcutaneous injections, and which is possessed for that purpose, unless such possession is

authorized by the certificate of a physician issued within the period of one year prior to any time of such possession. No person shall use, possess or have under their control for use any stem, bowl, lamp, yen hock or other opium-smoking paraphernalia or accessories used for the smoking or inhalation of opium.

(`89 Code, § 133.020) Penalty, see § 10.99

§ 97.03 PROHIBITING INHALATION OF CHEMICALS.

No person shall inhale, breathe, drink or otherwise take into the body any compound, liquid or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl, ethyl ketone, trichloromethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone or any other substance capable of inducing intoxication, elation, dizziness, paralysis, irrational behavior or, in any manner, distorting or changing the audio, visual or mental processes. For the purpose of this section, any such conditions so induced shall be deemed to be an intoxicated condition; provided, however, that the provisions of this section shall not apply to any person who inhales, breathes or drinks such material or substance pursuant to the direction or prescription of any licensed doctor as listed in § 97.02 and authorized to so direct or prescribe.

(`89 Code, § 133.030) Penalty, see § 10.99

§ 97.04 SALE OR POSSESSION.

No person shall, for the purpose of violating or aiding another to violate any provisions of this chapter, intentionally possess, buy, sell, transfer possession or receive possession of any glue or cement containing any of the intoxicating substances defined in § 97.03.

(`89 Code, § 133.040) Penalty, see § 10.99

§ 97.05 RESTRICTIONS OF SALES TO MINORS.

Except as provided in division (B) of this section and § 97.06, no person under 18 years of age shall possess or buy any glue or cement containing the intoxicating substances defined in § 97.03.

(A) Except as provided in division (B) of this section and § 97.06, no person shall sell or transfer possession of any glue containing the intoxicating substances defined in § 97.03 to another person under 18 years of age.

(B) Provided, however, a person may sell or transfer possession of any glue containing the intoxicating substance defined in § 97.03 to a person under 18 years of age for model building or other lawful use where said juvenile has in his or her possession and presents the written consent of parents or guardian, which consent shall contain the address and telephone number of said parent or guardian.

(C) This section shall not apply where the glue or cement is sold, delivered or given away simultaneously with and as part of a kit used for the construction of model airplanes, model boats, model automobiles, model trains or other similar models.

(`89 Code, § 133.050) Penalty, see § 10.99

§ 97.06 PERMANENT RECORDS OF SALE OR TRANSFER.

A person making a sale or transfer of possession of any glue containing the intoxicating substance defined in § 97.03 to a person under 18 years of age who presents the written consent of parents or guardian shall keep the written consent required by this section in a permanent type file available for inspection by the Police Department for a period of at least six months.

(`89 Code, § 133.060)

§ 97.07 SELF-SERVICE DISPLAYS PROHIBITED.

Retail establishments selling glue or cement containing the intoxicating substances defined in § 97.03 shall not sell such glue or cement from a self- service display.

(`89 Code, § 133.070)

§ 97.08 ORGANIZED MODEL CLASSES EXCLUDED.

This chapter shall not apply to the distribution of glue or cement by adult supervised youth organizations for use by their regularly organized model classes.

(`89 Code, § 133.080)

§ 97.09 MENACE TO PUBLIC WELFARE.

Any possession, sale, distribution, prescribing, administration, dispensation or use of drugs, controlled substances, poisons or chemicals or of any hypodermic syringe or needle or any instrument or implement adopted for the use of a controlled substance or any stem, bowl, lamp, yen hock or other controlled substance smoking paraphernalia or accessories used for the smoking or inhalation of a controlled substance contrary to the provisions of this chapter is declared to be dangerous to the public health and a menace to the public welfare and shall be a misdemeanor.

(`89 Code, § 133.090)

CHAPTER 98: NUISANCES

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GENERAL PROVISIONS

§ 98.01 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. Shall mean 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) *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.

(C) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under Chapter 52 of this code, the City Manager shall keep a record of the total cost of the installation or repair against the property.

(D) *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. The City Manager shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

(E) *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.

(F) *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.

(G) *Assessment.* On or before September 1 of each year, the City Manager 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 ten, as the City Council may determine in each case.

Penalty, see § 10.99

§ 98.02 TREE DISEASES AND DAMAGED TREES.

(A) *Policy statement and trees constituting nuisance declared.* The health of the trees in the city is threatened by shade-tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with M.S. §§ 89.001, 89.01, and 89.51 through 89.64, the provisions of this section are adopted as an effort to control and prevent the spread of these shade-tree pests. Further, trees damaged by weather or other forces that are not promptly trimmed or removed pose a hazard to persons and property within the city.

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 *Hylungopinus 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;

(5) Any ash tree infested with the emerald ash borer;

(6) Any tree infested with the Gypsy Moth;

(7) Any other tree with an epidemic disease or damaged by weather or other forces that is structurally unsound, in danger of falling or causing damage to real property or persons if not trimmed, removed or treated.

(8) Any dead, non-diseased tree or part thereof which, in the opinion of the designated officer, constitutes a hazard or public nuisance, including but not limited to, logs, branches, stumps, roots, firewood or other material.

(B) *Jurisdiction.* The city shall have control of all street trees, shrubs and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove and replace such trees, shrubs and other plantings.

(C) *Tree inspector.* The City Manager may appoint a Tree Inspector to coordinate the activities of the city relating to the control and prevention of damage by shade-tree pests. The Tree Inspector will recommend to the City Manager the details of any program for the declaration, control and prevention of shade-tree pests. The Tree Inspector is authorized to enforce or cause to be enforced the tasks incident to such a program adopted by the Council. The term **TREE INSPECTOR** includes any person designated by City Manager or the Tree Inspector to carry out activities authorized in this section.

(D) *Inspection and application of control measures.*

(1) The Tree Inspector is authorized to inspect premises and places within the city to determine whether shade-tree pests exist thereon, and to investigate all reported incidents of shade-tree pests. The Tree Inspector is authorized to take all reasonable measures to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade-tree pests may be by the presence of commonly recognized symptoms; by tests as may be recommended by the Commissioner of the Minnesota Department of Agriculture or the Commissioner of the Minnesota Department of Natural Resources; or other reliable means.

(2) Except in situations of imminent danger to human life and safety, the Tree Inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident or other person in control of the property, unless the Tree Inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(3) No person, firm or corporation shall interfere with the Tree Inspector, or with anyone acting under the Tree Inspector's authority, while engaged in activities authorized by this section.

(E) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance, as defined in division (A) of this section, to remain on any premises the person owns or controls within the city. Whenever a Tree Inspector determines with reasonable certainty that a public nuisance, as described by this section, is being maintained or exists on premises in the city, the Tree Inspector is authorized to abate a public nuisance according to the procedures in this division.

(1) The Tree Inspector will notify, in writing, the owner of record or occupant of the premises that a public nuisance exists and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the City Manager.

(2) The notice of abatement shall state that, unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request, in writing, to the City Manager within seven days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

(a) *High-cost abatement.* If the Tree Inspector determines that the cost of abating a nuisance will exceed \$5,000, based on a reasonable, good faith estimate, the written notice referred to must provide that, if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time and location of the hearing must be provided in the notice.

(b) *Abatement procedure in event of imminent danger.* If the Tree Inspector determines that the danger of infestation to other shade trees is imminent, and delay in control measures may put public health, safety or welfare in immediate danger, the Tree Inspector may provide for abatement without following division (1) or (2). The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

(3) If no timely appeal is submitted and the control measures prescribed in the notice of abatement are not complied with within the time provided by the notice or any additional time granted, the Tree Inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property, and carry out abatement in accordance with the notice of abatement.

(4) If the City Manager receives a written request for a hearing on the question of whether a public nuisance exists, the City Council shall hold a hearing within seven calendar days following receipt by the City Manager of the written request. At least three days notice of the hearing shall be given to the individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant and lienholder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

(5) 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. 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.

(6) On or before November 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.

(F) *Reporting discovery of shade-tree pest.* Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of a public nuisance caused by a shade-tree pest, as defined under division (A), shall report the same to the city.

(G) *Registration of tree care firms.* Any person, firm or corporation that provides tree care, tree trimming, or removal of trees, limbs, branches, brush or shrubs for hire must be registered with the Minnesota Commissioner of Agriculture under M. S. § 18G.07.

(Am. Ord. 718, passed 10-2-12) Penalty, see § 10.99

NUISANCES

§ 98.15 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 §§ 98.16, 98.17 or 98.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Penalty, see § 10.99

§ 98.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are 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

§ 98.17 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;

(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

§ 98.18 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 12 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 they may be amended from time to time which are 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 10:00 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) The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property.

(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 six feet above the ground and within three 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) Four or more code violations, fire calls or other nuisance complaints requiring enforcement response within a 30-day period.

(W) Any structure which is allowed to remain with an unfinished exterior for more than 180 days.

(Am. Ord. 672, passed 9-2-08) Penalty, see § 10.99

§ 98.19 DUTIES OF CITY OFFICERS.

Any peace officer or code enforcement officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

§ 98.20 ABATEMENT PROCEDURE.

Unless the nuisance is as described in §§ 98.21 or 98.22, the city may abate the nuisance by the procedure described below:

(A) Order. The enforcement officer shall serve a written order upon the owner. The written order shall also be served upon any occupant known to the officer and may be served upon any party known to have caused the nuisance. The written order shall contain

the following:

- (1) A description of the real estate sufficient for identification;
 - (2) A description and location of the nuisance and the remedial action required to abate the nuisance;
 - (3) The abatement deadline, to be determined by the enforcement officer, allowing a reasonable time for the performance of any act required;
 - (4) A statement that the order may be appealed and a hearing before the City Council obtained by filing a written request with the city before the appeal deadline which shall be the abatement deadline designated in the order or seven calendar days after the date of the order, whichever comes first;
 - (5) A statement that, if the remedial action is not taken nor a request for a hearing filed with the city within the time specified, the city will abate the nuisance and charge all costs incurred therein against the real estate as a special assessment to be collected in the same manner as property taxes.
- (B) Setting hearing date. In the event that an appeal is filed with the city, the city shall, within two weeks, fix a date for a hearing.
- (C) Notice of hearing date. In the event that an appeal is filed, the city shall mail a notice of the date, time, place and subject of the hearing to the owner and known occupants. The city shall also notify the enforcement officer.
- (D) Hearing before the City Council. The hearing shall be convened by the Mayor. The City Manager shall present written findings and recommendations and the property owner may present evidence and testimony to support the appeal of the abatement order. The City Council may confirm, modify, revoke, alter or cancel the order of the City Manager.
- (E) Abatement Action. If the Council determination requires abatement, the City Council shall, in the resolution, fix a time within which the nuisance must be abated and shall provide that, if the nuisance is not eliminated within the time specified, the city may abate the nuisance and assess the costs of the abatement to the subject real estate as a special assessment. If the remedial action is not taken nor an appeal filed within the time specified, the city may abate the nuisance.

(Am. Ord. 653, passed 5-17-2005; Am. Ord. 661, passed 9-5-2006) Penalty, see § 10.99

§ 98.21 SUBSTANTIAL ABATEMENT PROCEDURE.

When the enforcement officer determines that a nuisance exists on a property and the cost of abatement of the nuisance is estimated to exceed \$5,000, or the abatement involves demolition of a building other than a structure accessory to a residential building, or the abatement substantially diminishes the value of the property, and except in the case of an emergency provided for in § 98.22, the city shall abate the nuisance by the procedure described below. A good faith estimate of the abatement costs, not the actual cost calculated after the abatement is completed, shall be the basis which determines whether this abatement procedure shall be used.

(A) *Orders.* The enforcement officer shall serve a written order upon the owner, occupant and lien holder known to the officer. The order shall contain the following:

- (1) A description of the real estate which is sufficient for identification and which shall include the legal description;
- (2) The location of the nuisance on the property;
- (3) A description of the nuisance and the basis upon which it is declared to be a nuisance;
- (4) The remedial action required to abate the nuisance;
- (5) The abatement deadline, to be determined by the enforcement officer, allowing a reasonable time for the completion of any act required;
- (6) A statement that if the remedial action is not taken before the abatement deadline, the matter will be referred to the City Council, who, after a hearing, may order the city to abate the nuisance and charge all costs incurred against the real estate as a special assessment to be collected in the same manner as property taxes.

(B) *Notice to public.* When an order requires, exclusively or as an option, the demolition of a building, the public shall be put on notice as follows:

- (1) The owner is required to provide full disclosure of the order to abate to all occupants, lien holders, all present or subsequent

renters, and any subsequent owners.

(2) The enforcement officer shall post a placard in a conspicuous place which declares the property a "nuisance building" which shall include the following:

- (a) Name of the city;
- (b) The name of the authorized department having jurisdiction;
- (c) The chapter and section of the ordinance under which it is issued;
- (d) A statement declaring the property to be a nuisance condition and subject to demolition;
- (e) The date that the placard of nuisance condition is posted;
- (f) A statement of the penalty for defacing or removal of the placard;
- (g) The City Manager shall notify the City Council by sending a copy of the order to abate to the City Council.

(3) The enforcement officer shall notify the City Manager by sending a copy of the order to abate to the City Manager.

(C) *Setting hearing date.* If the remedial action is not taken within the time specified in the written order, the enforcement office will notify the City Council that substantial abatement is necessary and appropriate. Upon being notified by the enforcement officer, the City Manager shall, within two weeks, fix a date for an abatement hearing for the City Council.

(D) Notice. Written notice of the time, date, place and subject of the hearing shall be given as set forth in this division.

(1) The city shall immediately notify the enforcement officer.

(2) At least ten calendar days prior to the hearing, the enforcement officer shall notify the owner or his or her duly authorized representative by personal service of the notice of hearing and all occupants and lien holders known by certified mail. If, after reasonable effort, service cannot be made, either of the following methods of notice shall be considered adequate.

(a) Confirmed mail service which is either certified mail with signed receipt returned or first class mail confirmed by written response.

(b) Mailing the notice to the last known address posting the notice on the premises of the subject property.

(E) *Hearing.* At the time of the hearing, the City Council shall hear from the enforcement officer and any other parties who wish to be heard. After the hearing, the City Council shall adopt a resolution describing what abatement action, if any, the council deems appropriate. If the resolution calls for abatement action, the Council may either order the city to take the abatement action or fix a time within which the nuisance must be abated and provide that if corrective action is not taken within the specified time, the city shall abate the nuisance.

(F) *Notice of City Council action.* The enforcement officer shall serve copies of the resolution on any of the parties required to be notified in division (D).

(Am. Ord. 661, passed 9-5-2006) Penalty, see § 10.99

§ 98.22 EMERGENCY ABATEMENT PROCEDURE.

(A) *Emergency procedure.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in §§ 98.21 and 98.22, 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 shall, in writing, 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 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. The City Council shall then determine whether the condition identified is a nuisance which will unreasonably endanger the public, safety or welfare if there is a delay in abatement, and may order that the nuisance be immediately abated. If the nuisance is not then immediately abated, the nuisance shall be abated by city action.

(B) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an immediate, imminent and serious hazard to human life or safety.

(Ord. 661, passed 9-5-2006)

§ 98.23 COLLECTION OF ABATEMENT COSTS.

(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 officer 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.* 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-infested trees, the City Manager shall, on or before September 1 of each year, list the total unpaid charges incurred to abate the nuisance, along with all the 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 ten, as the City Council may determine in each case.

(Ord. 661, passed 9-5-2006)

WEEDS

§ 98.35 SHORT TITLE.

This subchapter shall be cited as the "Weed Ordinance."

§ 98.36 JURISDICTION.

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

§ 98.37 DEFINITIONS; EXCLUSIONS.

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

DESTRUCTION ORDER. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

NATIVE VEGETATION. Those indigenous shrubs, wild flowers, grasses and other plants that have naturally adapted themselves to the climate and soils of the area but require cultivation and maintenance to remain viable.

NATIVE VEGETATION PERMIT. A permit issued by the city pursuant to this subchapter allowing an owner or occupant to cultivate non- noxious native vegetation on his or her property. A **NATIVE VEGETATION PERMIT** exempts an owner or occupant from § 98.38.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

WEEDS, GRASSES and RANK VEGETATION. Includes but is not limited to the following:

(a) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A- Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sow Thistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Onion, Wild Parsnip, Garlic Mustard,

Common Tanzy, Japanese Knotweed, and any other weeds as defined or designated in M.S. Chapter 18, in particular §§ 18.77 and 18.79, or Minnesota Rules adopted pursuant thereto;

(b) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;

(c) Bushes of the species of tall, common, or European barberry, further known as *Berberis vulgaris* or its horticultural varieties;

(d) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height or length exceeding six inches as measured from the base at ground level to the tip of each stalk, stem, blade, or leaf;

(e) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.

(f) The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

(Am. Ord. 695, passed 7-20-2010)

§ 98.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of six inches in height or length as measured from the base at ground level to the tip of each stalk, stem, blade, or leaf.

(Am. Ord. 695, passed 7-20-2010) Penalty, see § 10.99

§ 98.39 FILING COMPLAINT.

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Manager or designee. If the city makes the complaint, an employee, officer or Council Member of the city shall file the complaint in all respects as set out above.

§ 98.40 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Manager shall make an inspection and prepare a written report to the City Council regarding the condition. The City Manager, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Manager or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Manager.

(2) Certified mailing to the City Manager or his or her designee or others is deemed filed on the date of posting to the United States Postal Service.

§ 98.41 APPEALS.

(A) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council Members in attendance and being at a regularly scheduled or special meeting of the City Council.

§ 98.42 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the "Destruction Order" within seven regular business days and has not filed a notice within 48 hours to the City Manager of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

§ 98.43 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Manager and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

§ 98.44 NATIVE VEGETATION PERMIT.

(A) *Permit.* Upon satisfaction and completion of all requirements in this section, the City Manager or designee shall issue a native vegetation permit. A native vegetation permit shall grant the property owner the ability to cultivate on his or her property and exempt the property owner from the requirements of § 98.38 of the City Code. Native vegetation permits shall be valid for five years from the date of approval. The City Manager shall not approve a native vegetation permit for property or property owners with unresolved City Code violations or administrative citations. The City Manager shall not approve a native vegetation permit for native vegetation designated as noxious by state statute or administrative rule as being noxious or detrimental plants.

(B) *Application.* The application for a native vegetation permit, which shall be provided by the City Manager or designee, shall contain the following:

(1) Address, legal description, and statement of intent or purpose in cultivating native vegetation.

(2) Site plan showing lot lines, buildings, and location of proposed native vegetation.

(3) Latin and common names of the species of native vegetation the property owner plans to cultivate.

(4) Maintenance requirements for said species.

(5) Name and address of a professional landscaping company which has been hired to perform maintenance on the native vegetation; or the name, address, and qualifications of the person(s) who will be responsible for maintenance of the native vegetation.

(6) A maintenance plan, which shall contain the following:

(a) Planting diagram showing the location and mature height of all specimens of native vegetation;

(b) Detailed information on the upkeep of each specimen; and

(c) Details of any long-term maintenance required for the native vegetation.

(C) *Revocation.* The City Manager or designee may regularly inspect any property having a native vegetation permit for compliance with the maintenance plan on file with the city for the property. If any property is not in compliance with the maintenance plan, the permittee may be notified and ordered to bring the property into compliance with the approved permit pursuant to §§ 98.40 and 98.41 of the City Code. If the permittee fails to comply, the City Manager or designee may:

- (1) Revoke the native vegetation permit;
- (2) Remove all improperly maintained native vegetation pursuant to § 98.42 of the City Code;
- (3) Declare the property ineligible for a native vegetation permit, unless sold, for a period of two years; and
- (4) Assess the property for all costs associated with inspection of the property and any removal of improperly maintained native vegetation in accordance with § 98.43 of the City Code.

(D) *Penalty.* The violation of any provision of this subchapter is a misdemeanor and the violator shall be fined or penalized not more than the maximum levels established by the State of Minnesota for misdemeanor offenses. Each day on which the violation continues is a separate offense.

(Am. Ord. 695, passed 7-20-2010)

OPEN BURNING

§ 98.60 DEFINITIONS.

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

FIRE CHIEF, FIRE MARSHAL and ASSISTANT FIRE MARSHALS. The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a "recreational fire" as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as "open burning."

RECREATIONAL FIRE. A fire set with approved starter fuel no more than three feet in height, contained within the border of a "recreational fire site" using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

RECREATIONAL FIRE SITE. An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a "recreation fire site" as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure.

STARTER FUELS. Dry, untreated, unpainted, kindling, branches, cardboard 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 burn.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, "presto logs," charcoal, cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three foot lengths.

§ 98.61 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers.

(B) No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings.

Penalty, see § 10.99

§ 98.62 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 98.60.

Penalty, see § 10.99

§ 98.63 PURPOSES ALLOWED FOR OPEN BURNING.

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire of health hazard that cannot be abated by other practical means.

(2) Ground thawing for utility repair and construction.

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.

(4) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.

(5) Disposal of unpainted, untreated, non- glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

(B) Fire Training permits can only issued by the Minnesota Department of Natural Resources.

Penalty, see § 10.99

§ 98.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, Fire Marshal, and Assistant Fire Marshals for reviewing and processing those applications.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established in an ordinance establishing fees and charges, as it may be amended from time to time.

Penalty, see § 10.99

§ 98.65 PERMIT PROCESS FOR OPEN BURNING.

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal, or Assistant Fire Marshals shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations.

§ 98.66 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

Penalty, see § 10.99

§ 98.67 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see § 10.99

§ 98.68 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal, or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

§ 98.69 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Penalty, see § 10.99

§ 98.70 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 to 88.22 and the *Minnesota State Fire Code*, Minn. Rules Chapter 1510, as these statutes and rules may be amended from time to time, are adopted by reference and made a part of this subchapter as if fully set forth at this point.

CHAPTER 99: ALARM SYSTEMS

Section

- 99.01 Definitions
- 99.02 Respond to false alarms
- 99.03 False alarm reports
- 99.04 Audible alarm requirements
- 99.05 Alarms required for certain establishments

§ 99.01 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ALARM SYSTEM. An assembly of equipment and devices (or a single device such as a solid state unit which plugs directly into a one-hundred-ten-volt AC line) arranged to signal the presence of a hazard requiring urgent attention and to which public safety personnel are expected to respond.

AUDIBLE ALARM. A device designed for the detection of unauthorized entry on premises, and which, when actuated, generates an audible sound on or near the premises.

CRIMINAL ACTIVITY. Entrance upon or into the property of another, taking the property of another or damaging the property of another without permission. **CRIMINAL ACTIVITY** includes burglary, robbery, assault, theft, damage to property, or other crimes as defined by state law.

FALSE ALARM. Any alarm system triggered by some reason other than criminal activity. It does not include activation of the alarm by acts of God or by utility company power outages.

(Ord. 641, passed 8-19-2003)

§ 99.02 RESPOND TO FALSE ALARMS.

(A) A fee as established by ordinance shall be paid to the city for the fourth response and each subsequent response by the police department or fire department within one calendar year to a false alarm.

(B) The city may collect such fee by whatever means necessary, including the institution of a civil action against the person responsible for the payment of such fee or certifying the fine on the property taxes.

(Ord. 641, passed 8-19-2003)

§ 99.03 FALSE ALARM REPORTS.

(A) The chief of police, the fire chief and/or the fire marshal may require the person in control of the alarm system to submit a written report after any false alarm. The report shall contain information specified by the chief

(B) The chief of police, the fire chief and/or the fire marshal may excuse false alarms associated with their respective departments when there is evidence that they are the result of an effort or order to upgrade, install or maintain an alarm system or if one or more false alarms result from the same malfunction within a seven-day period.

(Ord. 641, passed 8-19-2003)

§ 99.04 AUDIBLE ALARM REQUIREMENTS.

(A) All audible alarms shall meet the requirements of this section.

(B) Every person maintaining an audible alarm shall post a notice containing the name and telephone number of the persons to be notified to render repairs or service during any hour of the day or night that the burglar alarm rings. Such notice shall be posted at the main entrance to such premises or near the alarm in such a position as to be legible from the ground level adjacent to the building or kept currently corrected and on file with the police department and/or the fire marshal's office.

(C) Audible alarms that sound like police or fire sirens are forbidden.

(D) Audible alarms shall have an automatic shut- off which will silence the audible alarm within a period not to exceed 20 minutes and such alarms shall not sound for more than 20 during any hour.

(Ord. 641, passed 8-19-2003)

§ 99.05 ALARMS REQUIRED FOR CERTAIN ESTABLISHMENTS.

Due to their susceptibility to criminal attack or fire hazard the following businesses shall be required to have alarm systems (must be in compliance by December 31, 2005) that are monitored 24 hours a day at a business that specializes in receiving the transmission of alarm signals:

- (A) Establishments that sell or store Class A narcotic drugs.
 - (B) Veterinary clinics or animal hospitals.
 - (C) Medical clinics.
 - (D) Dental clinics.
 - (E) Banks or savings and loan institutions.
 - (F) Funeral Homes.
 - (G) Other such businesses that by their nature create a high susceptibility to criminal attack or fire hazard as required by the chief of police or fire.
- (Ord. 641, passed 8-19-2003)

CHAPTER 100: USER CHARGE FOR EXCESSIVE SERVICES

Section

- 100.01 Purposes
- 100.02 Definitions
- 100.03 Notice of nuisance
- 100.04 Subsequent nuisance or nuisance-related activity; liability
- 100.05 Cost of city services; annual assessment procedures

Cross-reference:

Nuisances and abatement thereof, see Chapter 98

§ 100.01 PURPOSES.

It is the intent of the City Council by this chapter to impose on the owner of a building or property in the city the cost for police, code enforcement service or any other city enforcement services, which are above the normal cost of providing these services city-wide, if the excess costs are spent to abate a nuisance which has occurred, or is maintained and permitted, in the building or on the property. The collection of the costs for such excess services shall be by assessment against the property on which the nuisance, or activity constituting the nuisance, occurs, pursuant to the authority in M.S. § 412.221, Subd. 23, empowering a city to abate nuisances and collect the costs of such abatement by special assessment. Nothing herein shall prevent the city from using the authority and procedures in any other provision of the city code or state law, including but not limited to M.S. § 429.021.

(Ord. 660, passed 9-5-2006; Am. Ord. 690, passed 4-6-2010)

§ 100.02 DEFINITIONS.

For the purpose of this chapter, the terms defined in this section have these meanings:

BUILDING OR PROPERTY. A structure suitable for human shelter, a commercial structure that is maintained for business activities that involve human occupation, any portion of the structure, or the real property on which the structure is located.

CHIEF. Chief of Police, Fire Chief or his or her designee.

CITY MANAGER. City Manager of the City of North St. Paul.

EXCESSIVE POLICE, CODE ENFORCEMENT SERVICE OR CITY ENFORCEMENT SERVICES. Those services provided at a specific building or property address after three or more calls for such services for nuisance events have occurred in a prior one-year time period, and where the owner was notified in writing that subsequent high levels of police and nuisance calls for service would result in a fee being charged for excessive consumption of those services, and where the owner has been provided with 30 days following notice to abate the nuisance generating the high levels of calls for police service.

INTERESTED PARTY. Any known lessee or tenant of a building or affected portion of a building; any known agent of an owner, lessee, or tenant; any known person holding an unrecorded contract for deed, being a mortgagee or vendee in physical possession of the building; or any known person who maintains or permits a nuisance.

LAST KNOWN ADDRESS. The address shown on the records of the Ramsey County Department of Property Taxation or a more recent address known to the Police Department. In the case of parties not listed in these records, the last known address shall be that address obtained by the Police Department after a reasonable search. If no address can be found, such address shall be that of the building in which the nuisance occurred, or was maintained or permitted.

NUISANCE. Nuisance means one or more of the following behavioral incidents occurring or committed within a building or on a property:

- (1) Prostitution or prostitution-related activity committed within the building;
- (2) Gambling or gambling-related activity committed within the building;
- (3) Maintaining a public nuisance in violation of M.S. § 609.74(1) or (3);
- (4) Permitting a public nuisance in violation of M.S. § 609.745;
- (5) Unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the building;
- (6) Unlicensed sales of alcoholic beverages committed within the building in violation of M.S. § 340A.401;
- (7) Unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of M.S. § 340A.503, Subd. 2(1), or unlawful consumption or possession within the building by persons under the age of 21 years in violation of M.S. § 340A.503, Subd. 1 and 3;
- (8) Unlawful use or possession of a firearm in violation of M.S. § 609.66, Subd. 1a, 609.67, or 624.713, committed within the building;
- (9) Violation by a commercial enterprise of local or state business regulations, ordinances, or statutes prohibiting the maintenance of a public nuisance as defined in M.S. § 609.74 or the control of a public nuisance as defined in M.S. § 609.745;
- (10) Actions which constitute a violation of M.S. § 609.72, relating to disorderly conduct; or
- (11) Actions which constitute a public nuisance under the city code, state, or federal laws.

OWNER. The person or persons in whose name or names the building is recorded with the Ramsey County Department of Property Taxation.

(Ord. 660, passed 9-5-2006; Am. Ord. 690, passed 4-6-2010)

§ 100.03 NOTICE OF NUISANCE.

(A) If the City Manager or designee has reason to believe that a nuisance has occurred, or is maintained or permitted in a building, or on a property, and intends to seek reimbursement for city services rendered in the future in connection with such nuisance or activities creating a nuisance, the City Manager or designee shall provide a written notice as required in this section to the owner and each interested party known.

(B) The written notice shall:

(1) State that a nuisance as defined in this chapter has occurred, or is maintained or permitted in the building, and specify the kind or kinds of nuisance which has occurred, or is being maintained or permitted;

(2) Summarize the evidence that a nuisance has occurred, or is maintained or permitted in the building, including the date or dates on which nuisance-related activities have occurred or were maintained or permitted, however, that one or more reports can be used to satisfy this requirement;

(3) Inform the recipient of the notice that (i) he or she has 30 days to abate the conduct constituting the nuisance, and to take steps to make sure that actions constituting a nuisance will not re-occur, (ii) if, after 30 days from the date of service of the notice, the nuisance re-occurs, or actions or conduct constituting a nuisance take place, the city may in its discretion impose the costs of police services in abating or attempting to abate such nuisance or nuisance-related activities, and (iii) the costs will be collected by assessment against the property and/or building as set forth in § 100.01 above.

(C) The written notice shall be served in person, or by certified or registered mail on the owner and all interested parties known to the City Manager or designee, at the last known address for each such person or persons.

(Ord. 660, passed 9-5-2006; Am. Ord. 690, passed 4-6-2010)

§ 100.04 SUBSEQUENT NUISANCE OR NUISANCE-RELATED ACTIVITY; LIABILITY.

(A) If, within the period commencing 31 days after a written notice is served pursuant to this chapter and continuing for one year thereafter, a nuisance occurs or is maintained or permitted in the building or on the property, and police and/or code enforcement services are rendered to abate or attempt to abate such nuisance, the costs of providing such services within that one year shall be assessed against the building and collected as provided in this chapter.

(B) The costs for providing excess police and/or code enforcement services shall include but not be limited to the gross salaries including all fringe benefits which are paid by the city to police and code enforcement officers while responding to or dealing with the nuisance or nuisance-related activities, the prorata cost of all equipment including vehicles, the prorata cost of police dogs assisting the officers, the cost of repairs to any city equipment and property damaged in responding to such nuisance or nuisance-related activities, and the cost of any medical treatment to injured police officers.

(C) The city reserves its rights to seek reimbursement for costs and damages not recovered by assessment against the building through other legal remedies or procedures.

(D) Nothing in this chapter shall be construed to require or prevent the arrest and/or citation of any person or persons for violations of federal, state or local laws or ordinances.

(Ord. 660, passed 9-5-2006; Am. Ord. 690, passed 4-6-2010)

§ 100.05 COST OF CITY SERVICES; ANNUAL ASSESSMENT PROCEDURES.

(A) Each appropriate city department shall maintain a record of the costs per visit in response to nuisance activities. The cost of providing such services is determined by the gross salaries including all fringes and benefits which are paid by the city for law enforcement staff, while responding to or dealing with these nuisance activities, the prorata cost of all materials and equipment including vehicles, the cost of repairs to any city equipment and property damaged in responding to such nuisance activities, and the cost of any medical treatment of any injured law enforcement officers. These costs shall be recalculated from time to time. In addition to maintaining a record of the cost per visit, the department shall maintain a record on individual properties of the cost of such services attributable to nuisances occurring after written notice has been sent to the owner and interested persons. Each department shall report such information to the Finance Director or his or her designee.

(B) Resolution approving total, setting date of public hearing. On or before September 1 of each year, the City Manager or designee shall notify the City Council of the total cost of such excessive police and code enforcement services performed during the previous year and the portion of such costs to be assessed against each lot and parcel of property that utilized excessive services in response to nuisance activity. Upon receipt thereof, the Council shall by resolution fix a date for public hearing at which time the Council shall consider adopting and levying the service charges. The date of public hearing shall be at least 20 days after adoption of that resolution.

(C) Notice of Council hearing. Following the adoption of the resolution provided in division (B) above, the Finance Director shall publish a notice of the hearing in a local newspaper of the city at least five days prior to the public hearing. The notice shall state the

date, time and place of hearing, the purpose of the hearing, identify the services provided and the property to be assessed a service charge therefor, and shall state the proposed rates of service charges to be considered by the Council.

(D) Notice to owner and interested parties. At least ten days before the hearing, notice thereof shall be mailed by first class mail to the owner and any interested party known to the city, at his or her last known address. Such notice shall also inform the recipient of the notice (i) of the procedures he or she must follow under the charter in order to appeal the assessments to the district court, and (ii) of the provisions of M.S. §§ 435.193 to 435.195 and the existence of any deferment procedure established pursuant thereto.

(E) Public hearing; adoption of assessment roll. On the date of public hearing, the Council shall meet to consider the adoption of the proposed service charges. The Council shall hear all interested parties concerning the proposed charges. At such meeting or at any adjournment thereof, the Council may amend the proposed service charges, and shall, by resolution, adopt the service charges as a special assessment against the properties which utilized excessive police services in response to nuisance activities. Special assessments levied hereunder shall be payable in a single installment.

(F) Certification to county for collection with taxes. After adoption by resolution of the service charges and assessment rates therefor, and no later than November 15, the City Clerk shall transmit a certified copy of said resolution to the County Department of Property Taxation to be extended on the proper tax list of the county and collected the following year along with current taxes.

(G) Appeal. Within 20 days after adoption of the resolution adopting the service charges, any person aggrieved may appeal to the district court in the manner set forth in M.S. Chapter 429.

(Ord. 660, passed 9-5-2006; Am. Ord. 690, passed 4-6-2010)

TITLE XI: BUSINESS REGULATIONS

Chapter

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GENERAL LICENSING PROVISIONS

§ 110.01 LICENSES AND PERMITS.

(A) *General rule.* Except as otherwise provided in this code, all licenses and permits granted by the city except liquor licenses shall be governed by the provisions of this chapter.

(B) *Acts prohibited.* No person shall conduct any activity or use any property for which a license or permit is required by law or this code without a currently valid license or permit for such activity or use.

(C) *Application.* Every application for a license or permit shall be made to the City Manager on a form provided. It shall be accompanied by payment to the City Manager of the prescribed fee. If, after investigation, the City Manager is satisfied that all requirements of law and this code have been met, the City Manager shall be presented with the application for approval, if the license or permit does not require Council approval.

(D) *Bond.* Where a bond is required for any license or permit, the bond shall be a corporate surety bond executed on a form approved by the Attorney and shall be filed with the City Manager before the license or permit is issued. Except where otherwise provided, the bond amount shall be as set by Council resolution, conditioned that the licensee or permittee shall comply with the applicable ordinance and laws pertaining to the licensed or permitted activity and that the licensee or permittee will indemnify the city and save it harmless from all loss or damage by reason of inadequate work performed or by reason of accident caused by the negligence of the licensee or permittee, agents or employees.

(E) *Insurance.*

(1) When a licensee or permittee is required to have in force a policy of insurance, the policy shall be approved as to substance and form by the Attorney. The policy shall provide that it is non-cancellable without 15 days notice to the city, and the coverage shall be for the term of the license or permit. Satisfactory evidence or coverage by insurance shall be filed with the City Manager before the license or permit is issued. Each license or permit shall terminate upon termination of the required insurance coverage.

(2) The amount of insurance shall be set by Council ordinance.

(F) City license holders may be subject to criminal history background checks.

('89 Code, § 85.010) (Am. Ord. 680, passed 6-9-09)

Cross-reference:

Criminal history background checks, see §§ 60.01 et seq.

§ 110.02 FEES.

(A) A license and permit fee schedule is available in the office of the City Manager.

(B) The City Council shall establish a fee schedule for the various permits, licenses and services provided by the city. The schedule shall be reviewed by the City Manager from time to time to assure its appropriateness. In doing so, the City Manager shall consider the cost of labor and materials in providing the license, permit or service and any other factors deemed appropriate. It shall be the intent to recover all costs when establishing the fee.

§ 110.03 DURATION OF LICENSE.

Unless otherwise specified, a license shall be valid for a year or the part of the year for which it is issued and shall expire on December 31.

('89 Code, § 85.030)

§ 110.04 TRANSFERS.

No license issued under this code may be transferred. Where a license relates to specific premises, the license shall not be changed to another location without approval of the Manager or Council.

('89 Code, § 85.040)

§ 110.05 INSPECTION.

(A) *Authorized personnel.* Any city official or employee having a duty to perform with reference to a license under this code and any police officer may inspect and examine any licensee, business or premises to enforce compliance with this code.

(B) *Search warrants.* If the licensee objects to the inspection of the licensed premises, the city official or employee charged with the duty of enforcing the provisions of this code shall procure a valid search warrant before conducting the inspection.

('89 Code, § 85.050)

§ 110.06 DUTIES OF LICENSEE.

Every licensee and permittee:

(A) Shall have the duties set forth in this section;

(B) Shall permit at reasonable times inspections of the place of business by authorized officers or employees;

(C) Shall comply with laws, ordinances and regulations applicable to the licensed business, activity or property;

(D) Shall display the license or other insignia given as evidence of the license in a conspicuous place on the premises, vehicle or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person;

(E) The licensee shall not lend or give to any other person the license or license insignia.

(`89 Code, § 85.060)

§ 110.07 SUSPENSION AND REVOCATION.

The City Manager may suspend for a period not exceeding 30 days, and the Council may suspend, revoke or impose a civil fine of not more than \$2,000 on any license or permit for violation of any provision of law, ordinance or regulation applicable to the licensed or permitted activity or property. Except where mandatory revocation is provided by state law without notice and hearing and except where suspension may be made without a hearing, the holder of the license or permit shall be granted a hearing under M.S. §§ 14.57 to 14.69 of the Administrative Procedures Act, as it may be amended from time to time.

(`89 Code, § 85.070)

§ 110.08 HOURS.

Unless otherwise allowed by the Council resolution, those licensees which allow customers to come upon their premises shall be closed to the public between the hours of 1:00 a.m. and 7:00 a.m. every day.

(`89 Code, § 85.080)

§ 110.09 CONDITIONS OF LICENSE.

The following activities shall be grounds for revocation of a license:

(A) Allowing intoxicating or 3.2% malt liquor to be consumed by the public on the licensed premises, except where the license holder has a valid intoxicating or 3.2% malt liquor license issued by the city;

(B) Allows gambling, as defined by state law, by the public on the licensed premises, except where the license holder has a valid gambling license issued by the city or State of Minnesota and gambling being done does not violate the gambling license;

(C) Allows controlled substances or drug paraphernalia, both as defined by state law, to be on the licensed premises whether accessible to the public or not;

(D) Knowingly allows a violation of any laws or ordinance of the city, county, state or federal governments;

(E) Fails to comply with the State Fire Code and Life Safety Code of the State of Minnesota.

(`89 Code, § 85.090)

§ 110.10 APPEAL FROM ACTIONS OF CITY MANAGER.

All actions of the City Manager may be appealed to the Council by filing with the City Manager a notice of appeal and paying a fee to be set by Council ordinance. All appeals shall be heard within 30 days.

(`89 Code, § 85.110)

§ 110.11 VIOLATIONS.

In addition to criminal sanctions, the Council by resolution may establish civil sanctions for violations of the licensing sections of this code.

(`89 Code, § 85.100)

GENERAL REGULATIONS

§ 110.25 HEATING, VENTILATION AND AIR CONDITIONING INSTALLATIONS (HVAC).

(A) *License required.* No person shall engage in the installation or repair of any HVAC equipment or of any gas burning device or equipment without a license. Provided, however, that a license issued to a general contractor under this chapter shall cover all persons in his or her employ, provided that each such person is a regular employee and qualified under state law and the provisions of this chapter to perform such work. When one license covers the work of several persons, as provided above, the licensee shall be responsible for all work performed.

(`89 Code, § 97.010)

(B) *License fees.* The license fee shall be set by Council ordinance.

(`89 Code, § 97.020)

(C) *Insurance required.* No license granted shall take effect until the applicant shall file with the City Manager public liability and property damage insurance policies.

(`89 Code, § 97.070)

(D) *Surety bond required.* Licensee must provide copy of state bond in the amount of \$25,000.

§ 110.26 RESERVED.

§ 110.27 TRENCHING LICENSE.

(A) *License required.* No person shall engage in the business of installing or constructing sewage disposal and water distribution systems in the city without a license.

(`89 Code, § 100.010)

(B) *License fee.* The license fee shall be set by Council ordinance.

(`89 Code, § 100.020)

(C) *Insurance required.* No license granted shall take effect until the applicant shall file with the City Manager public liability and property damage insurance policies.

(`89 Code, § 100.030)

(D) *Bond required.* No license shall be granted until the applicant executes and deposits with the City Manager a corporate surety bond in an amount to be determined by Council resolution.

(`89 Code, § 100.040)

(E) *Pipelayer certification.* Applicant shall hold a pipelayer's certification.

(`89 Code, § 100.050)

§ 110.28 GENERAL CONTRACTORS.

(A) *License required.*

(1) A license shall be required for any person engaged in the following businesses or work:

- (a) General contractors in the business of building construction, alteration or repair;
- (b) Masonry and brick work;
- (c) Roofing;
- (d) Sign erection, construction and repair, including billboards and electrical signs;
- (e) All excavation work;
- (f) Plastering;
- (g) Tree trimmers;
- (h) Driveways and fences.

(2) Provided, however, that any person who holds or is required to hold a license under this chapter need not obtain a license under this chapter to perform work which may be done under the authority of the license required by this chapter.

(`89 Code, § 101.010)

(B) *Government units and manufacturers.* Government units shall not be required to obtain licenses for work upon or in connection with their own property. Manufacturers shall not be required to obtain a license for work done to equipment as part of the manufacturing process, except as may otherwise be provided by this code.

(`89 Code, § 101.020)

(C) *License fee.* The annual license fee shall be set by Council ordinance.

(`89 Code, § 101.030)

(D) *Insurance required.* Each applicant shall file with the City Manager a certificate of insurance evidencing the holding of public liability insurance.

(`89 Code, § 101.040)

(E) *Property owners.* Property owners doing their own work on their own property need not be licensed under this chapter. This does not relieve them of other licenses or permits required by the city. Persons licensed by the State of Minnesota need only register with the city their state license when doing residential work in the city.

(`89 Code, § 101.050)

§ 110.29 STATE CONTRACTOR'S LICENSE REQUIRED.

No residential building contractor, residential remodeler, or other person who is required to be licensed by the state under the provisions of M.S. §§ 326.83 to 326.991, as they may be amended from time to time, and no person employing a residential contractor, who is required to be licensed, shall be issued a building, zoning or land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license but who does not have a state license shall be reported to the State Commissioner of Commerce who may begin an action against the person.

§ 110.30 ADMINISTRATIVE FEES FOR TAX EXEMPT BONDS.

(A) *Purpose.* The city has the authority to issue tax-exempt revenue bonds on behalf of certain types of development. This enables the development to secure favorable financing, and promotes housing, commercial and industrial development. The city does incur some cost in issuing these bonds, in terms of staff time and legal expenses in reviewing the proposal. This cost should not be born by the general taxpayers of the city. An administrative fee shall be charged to the development requesting the tax-exempt revenue bonds to cover these costs. The fee shall be on a sliding scale to address the potential cost to the issue in very large bond requests.

(B) *Policy.*

(1) In consideration of the city making tax- exempt revenue bond financing available for private development, and to assist the

city in defraying its present and future administrative expenses, the applicant shall, subject to applicable federal arbitrage regulations, pay to the city an administrative fee of 1% of the first \$10 million in requested financing, with a ½% fee being charged on the remaining issue. No annual administrative fee shall be charged.

(2) The city shall review these fees from time to time and may adjust the fees by ordinance.

(Ord. 640, passed 8-19-2003)

CHAPTER 111: AMUSEMENTS

Section

- 111.01 Motion picture and video theaters
- 111.02 Amusement parks, shows and circuses
- 111.03 Christmas trees

§ 111.01 MOTION PICTURE AND VIDEO THEATERS.

(A) *License required; exception.* No person shall show or exhibit any motion picture or video for which pay or compensation of any kind is required or received without a license; provided, however, that clubs, churches, schools and fraternal, religious and veterans' organizations may show motion pictures and videos as a part of a program rather than as a regular business without a license.

(`89 Code, § 88.010)

(B) *License fee.* The license fee shall be set by Council ordinance. No license shall be granted until the fee is paid.

(`89 Code, § 88.020)

(C) *Inspection of facilities.* No person shall show a motion picture or video in any room or building in the city to which the public is admitted upon payment of a fee or other compensation, until such room or building and projector and all appliances used in connection therewith shall have been inspected and approved by a representative of the city. The city shall at all times have the right to set forth reasonable requirements necessary and proper for the safety of the public in connection with the operation of motion pictures or videos.

(`89 Code, § 88.030)

(D) *Indecent pictures.* No person shall exhibit, portray or display in any place in the city by means of pictures, motion pictures or otherwise, any pictures, scene, reproduction or representation of obscene materials. The Manager, designee or the police officers of the city shall at all times have free access to all theaters and exhibitions or displays to insure compliance with this section. Obscene materials are those defined in M.S. § 617.241, as it may be amended from time to time.

(`89 Code, § 88.040)

§ 111.02 AMUSEMENT PARKS, SHOWS AND CIRCUSES.

(A) *Definitions.* For the purposes of this section, the following terms and words shall have the meaning given herein.

AMUSEMENT DEVICE. Any mechanical device designed and operated for the amusement, recreation or entertainment of the public, and for which a charge is made for the use thereof, such as, but not limited to, any self- propelled or mechanically or electrically operated vehicle, cart, auto, horse, boat, airplane or equipment of similar design which may or may not be placed on a stationary platform, and which devices provide an up and down, rocking, circular or free running motion.

AMUSEMENT PARK. Any place, premises or park where amusement devices are gathered together. This shall also mean and

include live animal rides such as pony rides and horse rides, golf driving tees, practice putting greens, miniature golf courses and all temporary installations usually referred to a carnivals.

SHOW. A circus, wild west show, menagerie, caravan of animals, field game, public show, performance, entertainment, exhibition or amusement of any kind or description not otherwise defined herein or any combination thereof which is conducted in the open air, under a tent or in any other place not licensed as a theater or amusement hall, admission to which is required or which is conducted for gain. Provided, however, that the term **SHOW** shall not mean and include entertainment given by any public or private school; lecture on historical, literary or scientific subjects; amateur field games or contests; or fairs, concerts or exhibitions of painting or statuary held by residents of the city for the exclusive benefit of any benevolent, religious or charitable object in the city.

PERMANENT OPERATION. Any business conducted at the same location for more than 30 days in any calendar year.

TEMPORARY OPERATION. Any business conducted at the same location for 30 days or less in any calendar year.

(`89 Code, § 91.010)

(B) *License required.* No person shall operate an amusement park, amusement device or show within the city without a license or permit. A license is required for a permanent operation and a permit for a temporary operation.

(`89 Code, § 91.020)

(C) *License and permit fees.* The license fee for the permanent operation of an amusement park or amusement device, for the temporary operation of an amusement park or amusement device or for the temporary or permanent operation of a show shall be such amounts as the Council shall deem reasonable and proper, taking into consideration the size and duration of the shows, to be set by resolution.

(`89 Code, § 91.030)

(D) *Minor ineligible for license.* No person under 18 years of age shall be granted a license or permit.

(`89 Code, § 91.040)

(E) *Carnivals prohibited on streets.* No license or permit shall be granted to any person to hold what is commonly known as a carnival or fair on any street or alley of the city.

(`89 Code, § 91.050)

(F) *Vulgar shows prohibited.* No person shall operate a show and no license shall be issued for the operation of any show which is obscene, as defined by M.S. § 617.241, as it may be amended from time to time.

(`89 Code, § 91.060)

(G) *Insurance required.* Each license or permit holder shall obtain an insurance policy naming the applicant and the city as insureds, providing liability for bodily injury in the amount to be set by Council resolution.

(`89 Code, § 91.070) (Am. Ord. 723, passed 5-21-13)

§ 111.03 CHRISTMAS TREES.

(A) *License required.* No person shall sell Christmas trees or associated items in the city without a license.

(`89 Code, § 94.010)

(B) *License fee.* The license fee shall be set by Council ordinance.

(`89 Code, § 94.020)

(C) Hours of operation and conduct of the business requirements may change from year to year. Applicant will be informed at time of request for permit of the expected hours of operation and conduct of the business.

Section

112.01 Definitions

112.02 Regulations

112.99 Penalty

§ 112.01 DEFINITIONS.

In addition to the definitions contained in M.S. § 349.12, for the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The State of Minnesota Gambling Control Board.

LICENSED ORGANIZATION. An organization licensed by the Board.

LOCAL PERMIT. A permit issued by the City of North St. Paul.

TRADE AREA. The area contained within the municipal boundaries of North St. Paul, Oakdale, Maplewood and all other areas within the ISD 622 boundary.

(Ord. 686, passed, 11-17-2009)

§ 112.02 REGULATIONS.

(A) *Annual accounting.* Annually, on or before February 1, each licensed organization with a local permit shall submit to the City Manager a copy of the 12 monthly reports submitted to the Board, as provided by M.S. Chapter 349, as it may be amended from time to time, for the prior calendar year.

(`89 Code, § 103.020)

(B) *Hearing.* If requested, all licensed organizations with a local permit which are charged with violating this chapter shall be afforded a hearing as provided in Chapter 110 of this code.

(`89 Code, § 103.050)

(C) *Premises used for gambling.* The only premise that may be used for lawful gambling shall be on sale licensed intoxicating liquor establishments operating as a permitted use, or as expressly authorized in a conditional or interim use permit, or religious, educational or non-profit organizations where they own their own premise or have rented the premise for at least three years.

(D) *Number of licenses on each premise.* There shall only be one licensed organization leasing part of a premise at any one time, except for premises owned by a congressionally chartered veterans' organization. Auxiliary organizations may also lease part of the veterans' premises where such auxiliary organizations are also nationally chartered.

(`89 Code, § 103.070)

(E) *Bingo.* Bingo, and premises used exclusively for bingo, shall be exempt from divisions (C) and (D) of this section.

(F) *Location of licensed organizations.* Because of the large number of organizations licensed to conduct gambling in the city, only those organizations which are located within the boundaries of trade area, have been so located for three or more years, or an officer of such organization resides within the trade area, shall be entitled to a local permit to conduct charitable gambling in the city. (`89 Code, § 103.090) An organization not in existence for three years may be granted a waiver by the City Council from the three year requirement if the organization is able to prove it directly benefits an established ISD 622 program.

(G) *Fee.* Established yearly by the City Council, and due upon application submission or renewal of application for a local permit.

(H) *Use of net profits.* Fifty percent of net profits from bingo and charitable gambling conducted in the city shall be spent for lawful purposes, as defined by M.S. § 349.12, as it may be amended from time to time, in the North St. Paul trade area.

(I) *Local permits for organizations.* Every organization seeking to conduct gambling must obtain a local permit, including those organizations seeking to conduct gambling which is exempt from state licensing under M.S. § 349.166 shall obtain a local permit from the City of North St. Paul.

(J) *Charitable gambling operator.* Any organization operating the gambling games as defined by M.S. § 349.12, other than the organization submitting an application for licensing, are subject to a background check completed by the North St. Paul Police Department at a fee set by the City Council.

(K) *Application for local permit.* Every organization applying for a local charitable gambling permit, including exempt gambling as stated in M.S. § 349.166, must obtain and deliver a completed application 60 days prior to the planned event. All other applicants must complete an application yearly by December 1 to obtain a local permit for the following year.

(Ord. 686, passed 11-17-2009)

§ 112.99 PENALTY.

Violations of any part of this chapter, including the failure to make timely reports to the city, shall be considered grounds for the city to refuse to approve the granting or renewal of the gambling license of the organization which is in violation. In addition, any person or organization violating any term of this chapter shall be guilty of a petty misdemeanor, and upon conviction, shall be subject to a fine up to \$100. Further, a violation that is preceded within the previous 12 months by two or more violations of this chapter shall constitute a misdemeanor, and upon conviction, shall be subject to a fine up to \$700, imprisonment up to 90 days, or both.

(Ord. 686, passed 11-17-2009)

CHAPTER 113: MESSAGE ENTERPRISE

Section

113.01 Message enterprise

113.02 Exceptions

§ 113.01 MESSAGE ENTERPRISE.

It shall be unlawful for any person to operate, engage in, or carry on, within the city, any type of massage services to the public for consideration.

§ 113.02 EXCEPTIONS.

A therapeutic massage enterprise or therapist may exist for the following persons and places:

(A) Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.

(B) Persons duly licensed by this stated as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments and provided the massage by beauty culturists is limited to the head, hand, neck and feet and the massage by barbers is limited to the head and neck.

(C) Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry.

(D) Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.

(E) Students of an accredited institution who are performing massage services in the course of a clinical component of an

accredited program of study, provided that the students are performing the massage services at the location of the accredited institution and provided the students are identified to the public as students of massage therapy. Students of an accredited institution who are performing massage services at clinics or other facilities located outside of the accredited institution must have at least 150 hours of certified therapeutic massage training at the accredited institution prior to performing the therapy outside of the institution and must be identified to the public as a student of massage therapy.

CHAPTER 114: AUCTIONS AND AUCTIONEERS

Section

- 114.01 Definition
- 114.02 Licenses required; exception
- 114.03 Building owners and occupiers

§ 114.01 DEFINITION.

For the purpose of this chapter, *AUCTIONEER* means any person, who, either as principal or agent, shall engage in the occupation or profession of conducting sales at auction for others.

(`89 Code, § 87.010)

§ 114.02 LICENSE REQUIRED; EXCEPTION.

No person shall conduct an auction sale in the city, act as an auctioneer at such auction or engage in the profession of auctioneer in the city without a license; provided, however, that no license shall be necessary to conduct a judicial sale, a sale by any executor, administrator or guardian, a sale by a public officer in the manner prescribed by law or a sale pursuant to statute to satisfy any lien upon the property sold. An auctioneer who intends to conduct an auction in the city shall submit to the Manager proof of licensure by the county and compliance with the bond requirements of state law at least 14 days before the date of the auction.

(`89 Code, § 87.020)

§ 114.03 BUILDING OWNERS AND OCCUPIERS.

No person occupying or having control of any building shall knowingly permit the sale of property at public auction in such building or in any apartment or yard appertaining thereto contrary to the provisions of this chapter.

(`89 Code, § 87.030)

CHAPTER 115: TAXICABS

Section

- 115.01 Definitions
- 115.02 License required; exception
- 115.03 Persons qualified to be licensed
- 115.04 Application
- 115.05 License fee

- 115.06 License period
- 115.07 Inspection of taxicabs
- 115.08 Granting
- 115.09 Transfer of license
- 115.10 Insurance policies
- 115.11 Taxicab tags and signs
- 115.12 Taxicab drivers
- 115.13 Taxicab stands
- 115.14 Revocation
- 115.15 Appeal to Council

§ 115.01 DEFINITIONS.

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

OPERATOR. Any person owning or having control of the use of one or more taxicabs used for hire upon the streets or engaged in the business of operating a taxicab within the city.

STREET. Any street, alley, avenue, court, bridge, lane or public place in the city.

TAXICAB. Any motor vehicle engaged in the carrying of persons for hire, whether over a fixed route or not, and whether the same be operated from a street stand or subject to calls from a garage or otherwise operated for hire; but the term shall not include vehicles subject to control and regulation by the State of Minnesota or vehicles regularly used by undertakers in carrying on their business.

TAXICAB DRIVER. Any person who drives a taxicab, whether such person be the owner of such taxicab or be employed by a taxicab owner or operator.

TAXICAB STAND. Any place along the curb or street or elsewhere which is exclusively reserved by the city for the use of taxicabs.

(`89 Code, § 123.010)

§ 115.02 LICENSE REQUIRED; EXCEPTION.

No operator shall operate a taxicab within the city limits without first having obtained a taxicab license therefore under the provisions of this chapter. However, any taxicab licensed to operate in any other municipality in this state may carry passengers from said other place to any point within the city and may freely enter, use and travel upon the streets thereof for that purpose without the owner or driver of said taxicab obtaining a license, so long as said owner or driver does not solicit or accept passengers within the city or otherwise operate therein.

(`89 Code, § 123.020)

§ 115.03 PERSONS QUALIFIED TO BE LICENSED.

Each applicant for a license under this chapter must be 18 years of age. If the applicant is a partnership or corporation, it must be qualified to operate taxicabs and carry on business under the laws of the State of Minnesota.

(`89 Code, § 123.030)

§ 115.04 APPLICATION.

(A) Each applicant for a license shall apply to the City Manager upon a form provided by the city. The form shall state the following information for each vehicle to be licensed: the full name and address of the legal owner; the class and passenger-carrying capacity of the vehicle; the length of time the vehicle has been in use; the make; the engine number, serial number and state license number; whether the vehicle is mortgaged and if so the name of the mortgagee and the amount of the mortgage; whether the vehicle is leased, licensed or under any form of contract permitting its use by other than the legal owner; and who will collect the revenues from and pay the expenses of operation of the taxicab.

(B) An application by a natural person shall be signed by that individual. An application by a partnership shall be signed by one of the partners, and an application by a corporation shall be signed by an officer of the corporation.

(`89 Code, § 123.040)

§ 115.05 LICENSE FEE.

The license fee for a taxicab license shall be as set by Council ordinance. Each applicant for a license shall deposit such sums as the Council shall determine at the time of filing of the application, which amount shall be returned to the applicant if the application is denied. Any applicant who applies for the transfer of an existing license shall pay a pro rata fee for the time from the date of the application until the date the license shall expire.

(`89 Code, § 123.050)

§ 115.06 LICENSE PERIOD.

Each license issued under this chapter shall expire the July 1 next following issuance.

(`89 Code, § 123.060)

§ 115.07 INSPECTION OF TAXICABS.

(A) The Chief of Police or some other employee of the city shall thoroughly and carefully examine each taxicab before a license is granted to operate the same. No taxicab license shall be issued for any taxicab which does not comply with the following:

- (1) It shall be in a thoroughly safe condition for the transportation of passengers;
- (2) It shall be clean and of good appearance;
- (3) It shall have windows sufficient to permit ready identification of persons riding therein.

(B) Such other examinations and tests of licensed taxicabs may be ordered by the Manager as deemed advisable. The Manager shall maintain a constant vigilance to see that all taxicabs are kept in fitness for public service.

(`89 Code, § 123.070)

§ 115.08 GRANTING.

If the Manager is satisfied that the public convenience and good order will be served thereby, the license may be granted to an applicant. Each license granted shall be given a number and shall give the number and an adequate description of the taxicabs licensed thereunder.

(`89 Code, § 123.080)

§ 115.09 TRANSFER OF LICENSE.

Any taxicab license may be transferred with the approval of the Manager.

(`89 Code, § 123.090)

§ 115.10 INSURANCE POLICIES.

(A) Before a license shall be delivered to any operator, the operator shall deposit with the City Manager a policy of policies of an insurance company or companies duly licensed to transact such business in this state, insuring the operator against loss from the liability imposed by law for damages on account of bodily injuries or death or for damages to property resulting from the ownership, maintenance or use of any taxicab to be owned or operated under such license. Such policy shall agree to pay to any judgment creditor, to the extent of the amounts specified in such policy, any final judgment rendered against the assured by reason of such liability. The policy of policies shall be approved by the Attorney as to form and compliance with this section.

(B) The limit in any such insurance policy of such liability of the insurer on account of the ownership, maintenance and use of such taxicab shall be as determined by Council resolution.

(`89 Code, § 123.100)

§ 115.11 TAXICAB TAGS AND SIGNS.

(A) The operator of each licensed taxicab shall be given a license which shall be fastened and displayed above the windshield on the inside of each taxicab. The license tag shall bear the license number of the taxicab and proper descriptive words, including the year for which the license was issued and it shall be of distinctly different shape for any three successive years. In case any operator shall lose a license, the operator shall secure a duplicate thereof by applying to the City Manager and paying the sum of \$10 thereof before doing any further business with the taxicab from which the license is lost.

(B) Each taxicab shall have some designation of the character of the vehicle painted in plain visible letters on each side thereof.

(C) Each taxicab shall display on the inside a card printed in plain, legible letters giving the number of the license, the minimum rates of fare to be charged and a statement that any package or article left in the taxicab must be returned by the taxicab driver to the City Manager's office, where it may be identified and claimed. The card shall also contain the statement "Ask the Driver for Bill and Receipt," in bold type.

(`89 Code, § 123.110)

§ 115.12 TAXICAB DRIVERS.

Any person who drives a taxicab shall:

(A) Possess a Class C License issued by the State of Minnesota;

(B) Be clean and courteous at all times.

(`89 Code, § 123.120)

§ 115.13 TAXICAB STANDS.

Licensed taxicabs may, when not carrying passengers, be parked at stands designated for that purpose by resolution of the Council. No taxicab shall park within 30 feet of any crosswalk unless this portion of the street has been designated as a taxicab stand. Only licensed taxicabs shall be permitted to park at taxicab stands.

(`89 Code, § 123.130)

§ 115.14 REVOCATION.

Any taxicab license may be revoked by the Manager at any time for cause and shall be revoked for any of the following reasons at the discretion of the Manager after a public hearing and after first giving five days notice of said hearing to the holder of such license:

- (A) Failure of any operator for 30 days to pay any final judgment recovered for damages arising out of the operation of said taxicab;
- (B) Whenever any operator shall fail to operate any such licensed taxicab or taxicabs for a period of 30 days, unless prevented by an emergency over which the operator has no control.

(`89 Code, § 123.140)

§ 115.15 APPEAL TO COUNCIL.

Any applicant who is denied a license and any licensee whose license is suspended or revoked may appeal such action to the Council. The Council will hold a hearing on any such appeal within 30 days after the appeal is filed with the City Manager.

(`89 Code, § 123.150)

CHAPTER 116: COURTESY BENCHES

Section

- 116.01 License required
- 116.02 Consent of property owners
- 116.03 Insurance required
- 116.04 Investigation and granting
- 116.05 License and inspection fee
- 116.06 Conditions of license
- 116.07 Transfer of bench ownership
- 116.08 Removal of benches
- 116.09 Imposing a limit on courtesy benches

§ 116.01 LICENSE REQUIRED.

No person shall place or maintain any courtesy bench or benches for the convenience of persons waiting for buses upon the streets or other public property of the city without a license.

(`89 Code, § 95.010)

§ 116.02 CONSENT OF PROPERTY OWNERS.

If the property abutting the street at the point where a bench is to be installed is zoned for residential or multiple dwelling use, the owner or lessees of such property must consent in writing to the installation. The attorney shall determine the form of the consent and may require the applicant to provide evidence of ownership or lease. The consent shall be filed with the application. An owner or lessee may withdraw consent for a subsequent year by giving notice in writing of the desire to do so to the engineer on or before the first day of April preceding the expiration of the license. The engineer shall promptly notify the licensee of any withdrawal of consent.

(`89 Code, § 95.020)

§ 116.03 INSURANCE REQUIRED.

The licensee shall file with the City Manager a bond or policy of public liability insurance approved by the attorney and conditioned that the licensee will indemnify and save harmless the city, its officers, agents and employees from any and all loss, costs, damages, expenses or liability which may result from or arise out of the granting of such license or the installation or maintenance of such bench for which a license is issued, regardless of the point to which such bench or benches may be moved within the city with or without the consent of the licensee, and that the licensee will pay any and all loss or damage that may be sustained by any person as a result of, or which may be caused by, or arise out of, such installation or maintenance. The bond or policy of insurance shall be maintained in its original amount by the licensee at all times during the period for which the license is in effect. In the event that two or more licenses are issued to one licensee, one bond or policy of insurance may be furnished to cover two or more benches, and each bond or policy shall be of a type which automatically continues coverage after the occurrence of any loss or accident from which liability may accrue.

(`89 Code, § 95.030)

§ 116.04 INVESTIGATION AND GRANTING.

The engineer shall inspect and approve all proposed bench locations and advise the Council. The engineer shall not approve the application if the installation of the bench would tend unduly to obstruct passage along any public sidewalk or way, would create a hazard, would be detrimental to the public safety, welfare and convenience or would violate any provisions of this chapter. All applications approved by the engineer shall be duly considered by the Manager, which shall grant or deny the same. A separate license number and license shall be issued for each bench authorized by the Manager, and the bench location shall be designated in the license.

(`89 Code, § 95.040)

§ 116.05 LICENSE AND INSPECTION FEE.

The License Manager and inspection fees shall be set by Council ordinance.

(`89 Code, § 95.050)

§ 116.06 CONDITIONS OF LICENSE.

All licenses in addition to the requirements under Chapter 110 shall comply with the following conditions:

- (A) No bench shall be placed in any alley, at any location where the distance from the face of the curb to the inside sidewalk line is less than eight feet or where the distance to the nearest point of intersection is more than 50 feet;
- (B) Each courtesy bench shall be installed parallel with the curb and set back not less than 18 inches from the face of the curb;
- (C) No bench shall be more than 42 inches high nor more than 30 inches wide or seven feet long over all;
- (D) Each bench shall have displayed thereon, in a conspicuous place, the license number;
- (E) The licensee shall maintain each bench at all times in a safe condition at its proper location and inspect each bench periodically in order that it may be properly maintained. Benches shall be kept at all times in a neat, clean and usable condition. Ice and snow shall be removed from the benches and the vicinity thereof in such a manner that each bench shall be accessible at all times;
- (F) The licensee shall move benches immediately upon request of the city should temporary removal be made necessary by construction or repair work in the vicinity of the bench;
- (G) No advertising matter or sign shall be displayed upon any bench except only upon the front and rear surfaces of the backrest. No liquor, beer or obscene, immoral or indecent advertising or illegal or political advertising of any character shall be permitted, and all advertising shall be subject to the approval of the Manager;
- (H) No advertising matter or sign on any bench shall display the words "Stop," "Look," "Drive In," "Danger" or any other word, phrase or symbol which might interfere with, mislead or distract traffic.

(`89 Code, § 95.060)

§ 116.07 TRANSFER OF BENCH OWNERSHIP.

Whenever a bench for which a license has been issued is sold or title or control thereof transferred or assigned, a new license shall be required and obtained for its maintenance.

(`89 Code, § 95.070)

§ 116.08 REMOVAL OF BENCHES.

Upon the revocation or expiration of any license without renewal, if the licensee fails promptly to remove a bench, the engineer may do so ten days after written notice is sent to the licensee by mail, and if the licensee shall fail to pay the cost of removal and storage thereof within a period of 60 days after the giving of such notice, the licensee's rights in said bench shall be forfeited but such forfeiture shall not excuse the licensee from the payment of the cost of removal and storage of said bench.

(`89 Code, § 95.080)

§ 116.09 IMPOSING A LIMIT OF COURTESY BENCHES.

The number of courtesy benches within the city limits of North St. Paul shall be no more than those numbers licensed on December 31, 1996. License renewals shall have priority for annual licenses. When licenses are available, the licensee shall be determined by lot.

(`89 Code, § 95.090)

CHAPTER 117: ALCOHOLIC BEVERAGES

Section

Intoxicating Liquor

- 117.010 Adoption of state law by reference
- 117.011 City may be more restrictive than state law
- 117.015 Definitions
- 117.018 Number of licenses which may be issued
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- 117.050 Insurance required
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- 117.080 Granting of license
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Penalties

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INTOXICATING LIQUOR

§ 117.010 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. § 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted by reference and are made a part of this chapter as if set out in full, except as hereinafter modified or changed. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.011 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.015 DEFINITIONS.

For the purpose of this chapter, the following words, terms and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates or requires a different meaning. These definitions are in addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time.

BAR/TAVERN. An on-sale "Exclusive Liquor Store," not a restaurant, hotel, bowling center, club or dinner theater.

CITY. The City of North St. Paul.

COUNCIL. The City Council of North St. Paul.

EMPLOYEE. A person who is currently under the employment of the licensee and is at the time on duty or scheduled to perform labor or services and who shall be paid for said labor and services.

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of those items authorized in M.S. § 340A.412, Subd.14.

FISCAL YEAR. The 12-month period used for accounting and income tax purposes.

ISSUING AUTHORITY. The City of North St. Paul.

LICENSE. A license granted pursuant to this chapter.

LICENSED PREMISES. The area shown in the license application as the place where wine or liquor will be served or consumed, provided it is compact and contiguous.

LOBBY. A vestibule or entrance open to the general public that is physically separated and distinct from retail establishments that are accessible from the vestibule or entrance through doors.

MEAL. Entrees, appetizers and sandwiches offered from a printed restaurant menu.

MINOR. Any person who has not attained the age of 21.

PUBLIC CONCOURSE. A corridor or hallway open to the general public that is physically separate and distinct from the retail establishments or stores that are accessible from the corridor or hallway through doors.

RESTAURANT. An establishment where food, meals, or lunches are prepared or served for consumption on the premises and which is licensed by the county as a food establishment.

SALE, SELL, SERVE, SOLD. All barter, exchanges, gifts, sales, and other means used to obtain, dispose of, furnish or dispense any liquor or wine or any other beverage, directly or indirectly, as part of any transaction, in violation or evasion of the provisions of this chapter, but does not include sales by state licensed liquor wholesalers selling to licensed retailers.

SCHOOL. A building that is principally used as a place where 25 or more persons receive a full course of educational instruction. Any post-secondary or post-high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of this chapter.

WINE TASTING EVENT. An event of not more than four hours duration at which persons pay a fee or donation to participate, and are allowed to consume wine by the glass on the premises without paying a separate charge for each glass.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19- 2016)

§ 117.018 NUMBER OF LICENSES WHICH MAY BE ISSUED.

State law establishes the number of on-sale intoxicating liquor licenses that a city may issue. The number of licenses which may be granted under this chapter is limited to the number of licenses which are currently allowed under M.S. Ch. 340A, as it may be amended from time to time. The Council is not required to issue the full number of licenses that may be available.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19- 2016)

§ 117.020 LICENSE REQUIRED.

(A) It shall be unlawful for any person, except wholesalers or manufacturers to the extent authorized under state license, to directly or indirectly, upon any pretense or by any device, to deal in or dispose by gift, sell, exchange, barter, keep for sale, dispense or otherwise dispose of any alcoholic beverages within the city without first having obtained the appropriate license and/or permit(s) from the city.

(B) *Types of licenses.*

(1) Intoxicating liquor licenses shall be of eight kinds: On-sale, Off-sale, On-sale Wine, Club, Special Sunday, Microdistillery Cocktail Room On-sale, Microdistillery Off-Sale, and Temporary On-Sale.

(2) Three point two percent malt liquor licenses shall be of seven kinds: On-sale, Off-sale, Brewpub On-sale, Brewpub Off-sale, Brewer Taproom On-sale, Small Brewer Off-Sale, and Temporary On-Sale.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19- 2016) Penalty, see § 117.600

§ 117.030 ELIGIBILITY FOR LICENSE.

(A) "On-sale" licenses shall be issued to hotels, bowling centers, restaurants, clubs or congressionally chartered veterans' organizations, and exclusive liquor stores only.

(B) "Off-sale" licenses shall be issued to exclusive liquor stores only.

(C) Special club licenses shall be issued only to duly incorporated clubs which have been in existence for a minimum of three years, have more than 50 members and sales will only be to members and bona fide guests.

(D) No "on-sale" or "off-sale" license shall be issued to a holder of any other license in the city which authorizes the sale of liquor, whether "off- sale," "on- sale" or "club", with the exception that a holder of an on-sale wine license may also be licensed to sell 3.2% malt liquor "on-sale."

(E) The holder of an on-sale wine license who is also licensed to sell 3.2% malt liquor and whose gross receipts are at least 60% attributable to the sale of food may also sell intoxicating malt liquor at on-sale without an additional license.

(F) "Microdistillery Cocktail Room On-sale" licenses may be issued to the holder of a microdistillery license issued under M.S. § 340A.22. A microdistillery cocktail room on-sale license authorizes the on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller.

(G) "Microdistillery Off-sale" licenses may be issued to the holder of a microdistillery license issued under M.S. § 340A.22. A microdistillery off-sale license authorizes off-sale of one 375 milliliter bottle per customer per day of product manufactured on-site, pursuant to the conditions imposed by M.S. § 340A.22, Subd. 4.

(H) "Brewpub On-sale" licenses shall be granted only to a brewery licensed under M.S. § 340A.301, Subd. 6, clause (d). A brewpub on-sale license authorizes on-sale of intoxicating liquor or 3.2% malt liquor for a restaurant operated in the place of manufacture.

(I) "Brewpub Off-sale" licenses may be issued, with the approval of the commissioner, to a brewer holding a brewpub on-sale license. A brewpub off-sale license authorizes off-sale of 3.2% malt liquor produced and packaged on the licensed premises, pursuant to the conditions imposed by M.S. § 340A.24, Subd. 2. A brewpub off-sale license also authorizes the off-sale of malt liquor packaged

in 64-ounce containers commonly known as growlers, between the hours of 8:00 a.m. and 10:00 p.m. on Sundays.

(J) "Brewer Taproom On-Sale" licenses shall be granted only to a brewery licensed under Minn. Stat. § 340A.301, Subd. 6, clause (c), (i), or (j). A Brewer Taproom On-Sale license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer, pursuant to the conditions imposed by M.S. § 340A.26.

(K) "Small Brewer Off-Sale" licenses may be issued, with the approval of the commissioner, to a brewery licensed under M.S. § 340A.301, Subd. 6, clause (c), (i), or (j). A small brewer off-sale license authorizes off-sale of 3.2% malt liquor pursuant to the conditions imposed by M.S. § 340A.28. A small brewer off-sale license also authorizes the off-sale of malt liquor packaged in 64-ounce containers commonly known as growlers, between the hours of 8:00 a.m. and 10:00 p.m. on Sundays.

(L) "Temporary On-Sale Liquor" licenses may be issued, with the approval of the commissioner, to a club or charitable, religious, or other nonprofit organization in existence for at least three years, for the on-sale of intoxicating liquor for up to four days on the premises of said club or organization, in connection with a social event sponsored by the licensee. No more than three four-day, four three-day, six two-day, or 12 one-day temporary on-sale liquor licenses, in any combination not to exceed 12 days per year, will be issued to any one club or organization or for any one location, within a twelve month period. No more than one temporary on-sale liquor license will be issued to any one club or organization or for any one location, within a 30-day period.

(M) "Temporary On-Sale 3.2 % Malt Liquor" licenses may be issued to a club or charitable, religious, or nonprofit organization for the sale of 3.2% malt liquor for up to four days on the premises of said organization, in connection with a social event sponsored by the licensee.

(N) "On-Sale Wine" licenses may be issued, with the approval of the commissioner, to a restaurant having facilities for seating at least 25 guests at one time or to a licensed bed and breakfast facility, for the on-sale of wine of up to 24% alcohol by volume for consumption on the premises.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19- 2016)

§ 117.040 APPLICATION FOR LICENSE.

(A) Every application for a license to sell liquor shall be verified and filed with the City Manager. It shall state the name of the applicant, age, representations as to character with such references as may be required, citizenship, whether the application is for "on-sale" or "off-sale," the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long has been in that business at that place and such other information as the Council may require from time to time. In addition to containing such information, each application for a license shall be in the form prescribed by the Department of Public Safety. No person shall make a false statement in an application.

(B) At the time of each original application for a license, except in the case of an "on-sale club" license, the applicant shall pay, in full, a background investigation fee.

(1) The fee may not exceed \$500 if the investigation is conducted within the state. Please submit \$500 with each application where the investigation will be conducted in state. The city will notify the applicant of any additional charges. There will be no refund of any fees for those investigations that can be conducted within the state.

(2) The investigation fee may not exceed the actual cost of the investigation, but not more than \$10,000, if the investigation is required outside the state. Please submit a minimum down payment of \$2,500 with each application where the investigation will be required outside the state. The city will notify the applicant of any additional charges required before beginning the investigation. Any fee greater than \$500 that is in excess of actual cost for an investigation outside the state will be refunded to the applicant.

(C) At any time that an additional investigation is required because of a change in the ownership or control of a corporation, or the licensee changes managers, the licensee shall pay an additional investigation fee in the amount of \$75 per hour.

(D) No license may be issued, transferred or renewed if the results of the investigation show that the issuance, transfer or renewal would not be in the public interest.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.050 INSURANCE REQUIRED.

(A) (1) Each application for a license shall be accompanied by a certificate of liability insurance for a policy that will remain active at all times during the validity of the license. The certificate of insurance must show the city as the certificate holder covering the licensing period. The certificate of insurance must indicate that: (1) the per-occurrence liquor liability limit meets or exceeds the minimum required dollar amount of coverage under M.S. § 340A.409, Subd. 1(a)(1), as it may be amended from time to time; (2) the policy covers the seven types of claims listed in M.S. § 340A.409, Subd. 1(a)(1), as it may be amended from time to time; and (3) the policy is subject to the cancellation notice requirements, including notice to the city, listed in M.S. § 340A.409, Subd. 1(d), as it may be amended from time to time.

(2) Each application must also include a certificate of workers compensation insurance.

(3) The above insurance requirements do not apply to licensees who establish by affidavit any of the following:

- (a) They are on-sale 3.2% malt liquor licensees with sales of less than \$25,000 in the preceding year;
- (b) They are off-sale 3.2% malt liquor licensees with sales of less than \$50,000 in the preceding year;
- (c) They are on-sale wine licensees with sales of less than \$25,000 in the preceding year; or
- (d) They are temporary wine licensees under law.

(B) All insurance policies shall be approved by the Council, after approval by the City Attorney as to form.

(C) The operation of any liquor business without having on file at all times within the city the liability insurance policy, all as required by this section and state law, shall be grounds for immediate revocation of the license. Any hearing required by M.S. § 340.135, as it may be amended from time to time, shall be held before the liability insurance is terminated.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 751, passed 6-7- 2016) Penalty, see § 117.600

§ 117.060 LICENSE FEE AND EXPIRATION.

(A) No license shall be issued until a receipt from the Finance Director is produced for the payment of the required fee for the license. All fees shall be paid into the General Fund of the city. Upon rejection of any application for a license, the Finance Director shall refund the amount paid.

(B) All licenses shall expire on June 30 of each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year.

(C) The license fees shall be set by Council ordinance. No refund of any fee shall be permitted except as authorized under M.S. § 340A.301, Subd. 6, as it may be amended from time to time.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.070 INVESTIGATION AND HEARING ON APPLICATION FOR LICENSE.

(A) All applications for a license shall be referred to the Chief of Police and to such other city departments as the Manager shall deem necessary for verification and investigation of the facts set forth in the application. The Chief of Police shall cause to be made such investigation of the information requested in § 117.040 as shall be necessary and shall make a written recommendation and report to the Council. The Council may order and conduct such additional investigation as it shall deem necessary. Opportunity shall be given to any person to be heard for or against the granting of the license.

(B) No license may be issued, transferred or renewed if the results of the investigation show, to the satisfaction of the City Council, that issuance, transfer or renewal would not be in the public interest.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.080 GRANTING OF LICENSE.

(A) After an application has been received, and the facts investigated, the City Council, in its discretion, may either grant or deny the application for any license, transfer, or renewal. Opportunity shall be given to any person to be heard for or against the granting of

any license. This same procedure, with the exception of the initial investigation fee, shall apply to the renewal of all liquor licenses.

(B) Each liquor license shall be issued to the applicant only, except:

(1) Partnerships, where all partners shall be named on the license;

(2) Corporation and clubs, where the manager who shall have the direct control and supervision of the premises shall also be named on the license.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.085 CHANGE IN REQUIRED INFORMATION.

Each licensee has the continuing duty to promptly notify the City Manager of any change in the information or facts required to be furnished on the application for a license. This duty continues throughout the period of the license, and failure to comply with said duty constitutes cause for revocation or suspension of the license or penalty as provided by law or ordinance.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.090 TRANSFER OF LICENSE.

(A) No license may be transferred to another person or to another place without the approval of the Council.

(B) No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

(C) In the event of the death of a person holding a license, the personal representative of that person is allowed to continue to operate the business within the terms of the license for a period not to exceed 90 days after the death of the licensee. M.S. 340A.410, Subd. 3.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.100 PERSONS INELIGIBLE FOR LICENSE.

(A) No license shall be granted to or held by any person or corporation who is ineligible under M.S. Chapter 340A, as it may be amended from time to time.

(B) No license shall be granted to any person under the state established legal drinking age.

(C) No license required under this chapter may be issued to or held by any person or corporation who has had any type of liquor license revoked within five years of the liquor application.

(D) No new license may be issued to or held and the City Council may refuse to renew the license of any person or corporation who, within five years of license application, has been convicted of a felony or a willful violation of federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage. The city may require that fingerprints be taken and forwarded to the Federal Bureau of Investigation for purposes of a criminal history check.

(E) No license shall be granted to the spouse of a person who is ineligible for an intoxicating liquor license.

(F) No new license shall be issued or renewed for a person who, in the judgment of the City Council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.110 PLACES INELIGIBLE FOR LICENSE.

(A) No license shall be granted or renewed for operation on any premises on which taxes, assessments or other financial claims of the city, school district, county or the state are delinquent and/or unpaid.

(B) No place shall be granted more than one kind of license under this chapter. For the purposes of this division, the term **PLACE** shall be construed to mean the confines for which a license was granted.

(C) No license shall be granted for any place which has a common entrance or exit between any two establishments, except that a public concourse or public lobby shall not be construed as a common entrance or exit.

(D) No license shall be granted for any premises within 300 feet of any property line of a place of worship or any elementary, junior high, or senior high school having a regular course of study accredited by the state, nor for the areas prohibited in M.S. § 340A.412, Subd. 4.

(E) No license shall be granted to any property where the conduct of the business is prohibited by Chapter 152.

(F) No license shall be granted to any property not eligible under M.S. Chapter 340A, as it may be amended from time to time, and the regulations of the Department of Public Safety.

(G) No license shall be granted to any property used in whole or in part as an adult use business as defined by Chapter 120.

(H) No new on-sale license under this chapter shall be granted to an establishment that does not have a dining area, open to the general public, with a total minimum floor area of 750 square feet.

(I) No new on-sale license shall be granted to any on-sale establishment that does not provide separate indoor restroom facilities for males and females, each clearly marked. Adequate restrooms facilities shall minimally have at least one wash basin/sink and at least one toilet and be able to be secured from the inside. Additionally, restrooms shall provide cleansing and drying materials. If more than one toilet and/or urinal is provided, each toilet shall have a separate enclosure with a door that can be secured from the inside. Dividers shall be provided with urinals.

(J) On-sale intoxicating liquor licenses. In addition to the requirements of this chapter, no new on-sale intoxicating liquor license shall be granted to any establishment other than a restaurant, a hotel, a bowling center or a dinner theater.

(K) Existing on-sale establishments as of June 30, 2011, are not subject to the provisions of divisions (H) through (J) of this section and may have their licenses renewed or a new license issued to a new owner for operation as an exclusive liquor store (non-restaurant) unless a substantial change is made to the premises for which the establishment is licensed.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.120 CONDITIONS OF LICENSE; GENERAL LICENSE RESTRICTIONS.

Every license shall be granted subject to the following restrictions and all other requirements of this chapter and of any other applicable law of the city or state:

(A) *Posting of license.* A license issued under this chapter must be posted in a conspicuous place in the premises for which it is used.

(B) *Description of premises.* The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. A detailed diagram of the floor plan shall

be included. The description may not include any parking lot or sidewalk.

(1) A license issued under this chapter is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the issuing authority and complete a new license application.

(2) *Patios/decks/outdoor areas.*

(a) Licensed establishments may choose to have an attached patio/deck or outdoor area on their premises. Licensee shall comply with M.S. § 144.413 when building the structure. The area must have a fence that is at least six-feet high. The fence should have a gate with a lock. Entry to the patio shall be limited to accesses through the establishment unless the entry is staffed by employees or security personnel. Storage of alcoholic beverages is not allowed on the attached patio/deck/ outdoor area, except that malt liquor beverages may be stored in locked or sealed containers in confined spaces or structures that limit access by unauthorized

persons.

(b) The patio/deck/outdoor area must be included in the original application and be compact and contiguous with the liquor service area. If an addition, a new license application shall be made.

(C) *Responsibility for sobriety and order.* A licensee under this chapter shall be responsible for the conduct of the business being operated and shall maintain conditions of sobriety and order.

(D) Any Police Officer, Building Inspector, Fire Marshal, Code Enforcement Officer or any properly designated officer or employee of the city shall have the unqualified right to enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises, without a warrant.

(E) No licensee shall apply for or possess a federal wholesale liquor dealers special stamp tax or federal gambling stamp.

(F) *Prostitution and illegal drug prohibitions.* A licensee under this chapter shall not allow any person to engage in prostitution or to sell or use illegal drugs on the licensed premises or in any adjoining building or room under the licensee's control.

(G) *Coin-operated amusement devices.* Coin-operated amusement devices may not be made available in establishments holding an off-sale license under this chapter.

(H) *Signage.* The licensee shall post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign, 14-1/2 inches wide by eight inches high, as designed by the Commissioners of Health and Public Safety, which incorporates the following information:

- (1) The penalties of driving while under the influence of alcohol;
- (2) Penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and
- (3) A warning statement regarding drinking alcohol while pregnant.

(I) Temporary amendment of licensed liquor premises. A holder of an on-sale liquor license shall make application to the issuing authority for a temporary amendment of the licensed premises, at least 60 days in advance, of any event at which the licensee proposes to amend the liquor licensed premises to provide for liquor service in a compact and contiguous area not included in the original license application. Included in that application, the licensee must submit a site plan of the compact and contiguous area from which liquor is to be dispensed and consumed, the maximum anticipated number of guests attending the event and the total occupancy load for the area covered by the temporarily amended licensed premises. The application must include evidence of insurance for the area covered by the temporarily amended licensed premises and payment of all temporary amendment processing fees set forth by the City Council. The City Council shall consider all such amendments to the licensed premises using the following criteria:

- (1) The area to be used must be immediately adjacent to the licensed premises;
 - (2) The area will be used in connection with a special event no longer than three days in duration;
 - (3) No more than six temporary amendments per year will be allowed for a licensee at one establishment and a special license issued a non-profit, charitable, religious or political organization which contracts with the licensee for provision of service will be counted as part of this total;
 - (4) Adequate measures will be taken to control access to the additional area, to ensure that alcoholic beverages will not be furnished in violation of state law or this City Code to persons under the age of 21 years, obviously intoxicated persons or carried outside of the licensed premises or the temporarily expanded area;
 - (5) Adequate measures will be taken to ensure that there will not be a violation of the city's noise ordinance;
 - (6) The use of the additional area will not decrease available parking below that required by the zoning ordinance for the licensed premises;
 - (7) The use of the additional area will not unreasonably impede traffic circulation;
 - (8) The licensee has obtained adequate liability insurance for the additional area; and
 - (9) The issuance of the temporary amendment will not be adverse to the public health, safety and welfare.
- (J) No liquor shall be sold or furnished to any intoxicated person or to any person under 21 years of age.
- (K) *Minors selling.* No licensee under this chapter shall permit a person less than 18 years of age to serve or sell liquor or

alcoholic beverage. A licensee under this chapter may employ a person under the age of 18 years, provided that person does not serve, sell, or furnish any liquor or alcoholic beverage, and provided that the employment of that person does not violate any state or federal child labor law or regulation.

(L) *Consumption requirements.* Consumption of on-sale alcoholic beverages is allowed only in the approved licensed premises.

(M) No persons, except employees or owners, shall be allowed on any licensed premises between the hours of 1:30 a.m. to 8:00 a.m.

(N) No licensee shall host, provide or utilize space within the licensed premises to conduct "under 21 night promotions" unless all liquor has been removed from the premises, including automated dispensing systems, and a special event permit has been submitted at least 60 days in advance, and is approved by the Council.

(O) Conditions for temporary liquor and 3.2% malt liquor licenses. The following conditions apply to all temporary licenses:

(1) Adequate measures will be taken to control access to the area, to ensure that alcoholic beverages will not be furnished in violation of state law or this City Code to persons under the age of 21 years or to obviously intoxicated persons or carried outside of the licensed premises;

(2) Adequate measures will be taken to ensure that there will not be a violation of the city's noise ordinance;

(3) The use of the area will not decrease available parking below that required by the zoning ordinance for the licensed premises;

(4) The use of the area will not unreasonably impede traffic circulation;

(5) The licensee has obtained adequate liability insurance which will cover the event and alcohol sale; and

(6) The issuance of the temporary license will not be adverse to the public health, safety and welfare.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19-2016) Penalty, see § 117.600

§ 117.122 CONDITIONS OF LICENSE; ADULT ENTERTAINMENT PROHIBITION.

The City Council finds that the sale and/or presence of alcoholic beverages by the drink and adult entertainment occurring on the same premises can increase disorderly conduct and can result in incidents of prostitution, public masturbation, indecent exposure, and/or sexual assault. In order to protect the health, safety, and welfare of city residents, and pursuant to the City Council's authority to regulate alcoholic beverages under M.S. Chapter 340A and the Twenty-first Amendment to the U.S. Constitution, no licensee shall permit the following kinds of conduct on the licensed premises or in areas adjoining the licensed premises where the following kinds of conduct can be seen by patrons of the licensed premises:

(A) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, or flagellation; or

(B) The actual or simulated touching, caressing, or fondling on the breast, buttocks, anus, or genitals; or

(C) The actual or simulated displaying of the pubic hair, anus, vulva, or genitals; or

(D) The displaying of films rated by the Motion Picture Association of America as NC-17: "No One 17 And Under Admitted", unrated films and films deemed obscene or pornographic pursuant to state or federal law; or

(E) The presentation of any female in such manner or attire to expose to view any portion of the breast below the top of the areola, or any simulation thereof.

(F) Nudity prohibited. It is unlawful for any person to be on the licensed premises when that person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.124 CONDITIONS OF LICENSE; RESTRICTIONS REGARDING GAMBLING.

(A) No licensee under this chapter may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed

premises of dice, slot machines, blackjack tables, roulette wheels or gambling devices except in conjunction with the holding of a casino or other lawful gaming event as authorized under Chapter 112 of the City Code.

(B) No licensee under this chapter shall permit gambling on the licensed premises, except that gambling equipment may be kept or operated and raffles may be conducted on the licensed premises and/or adjoining rooms when the use of such gambling equipment or raffles is authorized under M.S. §§ 349.11 through 349.60, and authorized under Chapter 112 of the City Code.

(C) *Lottery tickets.* The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S. §§ 349.A01 through 349A.15.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011) Penalty, see § 117.600

§ 117.126 FOOD SALES.

(A) No on-sale liquor license shall be issued to a new establishment unless it meets the definition in § 117.015 and requirements of a restaurant, hotel, bowling center, club or theater.

(B) Food service must be available to customers up until two hours before discontinuing alcoholic beverage service.

(C) Existing on-sale establishments as of June 30, 2011 that intend to operate as restaurants shall meet the definition and requirements of a restaurant in § 117.015 by June 30, 2012.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.130 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

(A) No liquor shall be sold or consumed or displayed in an open container on a public right-of-way or in a motor vehicle, subject to § 117.140. A public right-of-way shall include but not be limited to a street, sidewalk, boulevard, alley, trail, parking lot or park.

(B) No person being a trespasser upon the private premises of another may drink or possess beer, intoxicating liquor, or any alcoholic beverage.

(C) No liquor shall be consumed at any one place within the city limits without a permit granted by the City Manager or designee, where there are more than 50 people in attendance, except where a liquor license has been issued.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19- 2016) Penalty, see § 117.600

§ 117.140 PERMITS FOR CONSUMPTION ON PUBLIC LAND.

Liquor shall not be consumed in any park or public lands except as otherwise provided by ordinance.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19- 2016) Penalty, see § 117.600

§ 117.145 KEEPING OR VISITING HOUSE FOR UNLICENSED SALE OR PURCHASE OF INTOXICATING LIQUOR.

It is a misdemeanor to:

(A) Keep within the city a house or place for the unlicensed sale of intoxicating liquor; or

(B) Visit such house or place to purchase or consume any intoxicating liquor sold on the premises.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011) Penalty, see § 117.600

§ 117.150 REVOCATION, SUSPENSION OR CIVIL PENALTY.

The Council may suspend, revoke or impose a civil penalty on any liquor license for violation of any provision or condition of this chapter or any state law or rule regulating intoxicating liquor as provided in § 117.600.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.155 CONDITIONS OF LICENSE; HOURS OF SALE.

A licensee under this chapter shall make no sale of or furnish any alcoholic beverage during the following hours on the following days:

(A) *Off-sale licensees.* No off-sale of any alcoholic beverage or liquor may be made:

(1) On Sundays, except that an establishment that holds a brewpub off-sale or small brewer off-sale license may off-sell malt liquor packaged in 64-ounce growlers between the hours of 8:00 a.m. and 10:00 p.m.;

(2) Before 8:00 a.m. on Monday through Saturday;

(3) After 10:00 p.m. on Monday through Saturday;

(4) On Thanksgiving Day;

(5) After 8:00 p.m. on Christmas Eve, December 24, unless a Sunday, then no sales;

(6) On Christmas Day, December 25.

(B) *On-sale licensees.* No sale of any alcoholic beverage for consumption on the licensed premises may be made:

(1) Before 8:00 a.m. on Monday through Saturday;

(2) After 1:00 a.m. on Monday through Saturday;

(3) After 1:00 a.m. on Sunday, except as allowed in § 117.160.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19-2016) Penalty, see § 117.600

§ 117.160 SUNDAY SALES LICENSES.

Special licenses for the sale of intoxicating liquor on Sundays shall be issued only under the following conditions:

(A) The holder of an "on-sale" liquor license may apply to the Council for a Sunday sales license pursuant to which such licensee may sell intoxicating liquor between the hours of 8:00 a.m. on Sundays and 1:00 a.m. on Mondays in conjunction with the sale of food, provided that the licensee is in conformance with the Minnesota Clean Air Act;

(B) No Sunday sales license shall be issued contrary to state law;

(C) All the requirements of this chapter are followed;

(D) No Sunday sales license may be issued to an on-sale licensee unless the licensee operates a restaurant as defined in § 117.015, serving meals regularly to the public and having facilities for serving at least 30 diners at the same time, at least 24 of which must be at tables separate from the bar. Establishments must also comply with § 117.126;

(E) Any on-sales licensee who requests a certificate of compliance for Sunday sales and which is refused such a certificate by the City Manager may appeal the same to the Council within ten days after the refusal and payment of a \$200 fee to cover the costs of the appeal by the city. The Council shall consider all such evidence as it considers valid in determining whether or not the licensee is eligible for a Sunday sales license. Only one such request shall be allowed each license year;

(F) Any Sunday sales licensee who offers for sale any intoxicating liquor before 8:00 a.m. on Sundays or after 1:00 a.m. on Mondays, shall be considered as violating the liquor law and shall, as penalty, forfeit its Sunday liquor license for at least a one-year period, in addition to any other penalties that may be applicable, and/or any other sanctions imposed by the City Council.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19-2016) Penalty, see § 117.600

§ 117.170 SALES PROVISIONS APPLICABLE TO CATERERS.

(A) *City Council findings.* The City Council makes the following findings regarding the need to enact additional sale provisions governing persons selling or furnishing alcoholic beverages pursuant to a caterer's permit issued pursuant to M.S. § 340A.404, Subd. 12.

(1) Minnesota Statutes § 340A.404, Subd. 12, authorizes the holder of a caterer's permit to provide alcoholic beverages at unlicensed locations provided that the sale is incidental to a larger food service. The City Council enacts the following sale provisions in order to preserve the incidental nature of the caterer's permit and to preserve the underlying state and local framework for permanent on-sale intoxicating liquor licenses.

(2) The issuance of a caterer's permit does not allow a person to in effect operate a permanent on-sale intoxicating liquor establishment; rather it entitles the person to provide temporary alcoholic beverages as an incidental part of a food service that prepares meals at special locations apart from the licensee's permanent location. The location requirements in this section for the sale of alcoholic beverages at catered events are enacted to assure compliance with existing state and local provisions regarding on-sale licenses.

(3) Numerous events conducted at one location where alcoholic beverages are provided by caterers thwarts the licensing scheme for permanent on-sale intoxicating liquor establishments.

(B) *Sale provisions.* Events that are catered in accordance with M.S. § 340A.404, Subd. 12 shall comply with the following additional sale provisions:

(1) No one location shall have more than 48 days of catered events in one calendar year at which alcoholic beverages are served to the general public, and in no case shall any one such event be for more than four consecutive days.

(2) Notice to the license section of the catered event shall be provided seven days prior to the event.

(3) A special event license under this chapter shall be required for any event at which 5,000 or more people are expected to attend the function or event.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011) Penalty, see § 117.600

3.2% MALT LIQUOR

§ 117.300 PROVISIONS OF STATE LAW ADOPTED.

The provisions of M.S. Chapter 340A, as it may be amended from time to time, with reference to the definition of terms, applications for license, granting of license, conditions of license, restrictions on consumption, provision on sales, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of 3.2% malt liquors are adopted and made a part of this chapter as if fully set out herein, except as hereinafter modified or changed.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.310 ADDITIONAL PROVISIONS ADOPTED.

All the provisions of §§ 117.020, 117.030, 117.050 and 117.070 through 117.160 shall apply to 3.2% malt liquors as if hereinafter fully set forth.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.320 LICENSE FEES AND EXPIRATION.

(A) No license shall be issued until a receipt from the Finance Director is produced for the payment of the required fee for the license. All fees shall be paid into the General Fund of the city. Upon rejection of any application for a license, the Finance Director shall refund the amount paid.

(B) All licenses shall expire on June 30 of each year. Each license shall be issued for a period of one year, except that if a portion of the licensed year has elapsed when the application is made, a license shall be issued for the remainder of the year.

(C) The license fee for all licensees shall be set by Council ordinance.

(D) No refund of any fee shall be permitted, except as authorized under M.S. § 340A.408(5), as it may be amended from time to time.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.330 SELLING.

No person under the age of 18 years shall sell or serve any 3.2% malt liquor.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011) Penalty, see § 117.600

§ 117.340 HOURS OF SALE.

No sale of 3.2% malt liquor may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 10:00 a.m. on Sunday.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011) Penalty, see § 117.600

SELLING SETUPS

§ 117.400 PERMIT REQUIRED.

No private club or public place, directly or indirectly or upon any pretense or by any device, shall allow the consumption or display of intoxicating liquor or the serving of any liquid for the purpose of mixing with intoxicating liquor without first securing a permit therefore from the Department of Public Safety and paying an annual fee as provided in this subchapter.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.410 AMOUNT OF FEE.

The fee under this subchapter shall be \$300 per year, which shall be in addition to any license or permit fees required by the state. The fee shall be paid to the Finance Director on or before July 1 of each year. Any private club or public place which pays a fee subsequent to July 1 shall pay a pro rate fee for the period of time from which the fee is paid until the following July 1; provided, however, that any private club or public place which violates the provisions of § 117.400 shall not be entitled to pay a pro rate fee, but must pay the full \$300 fee. In computing the pro rate fee, an unexpired fraction of a month shall count as a whole month.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.420 POSTING A PERMIT AND RECEIPT.

The written receipt for payment issued by the city and the permit issued by the state shall be conspicuously posted at all times on the premises.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011) Penalty, see § 117.600

§ 117.430 INSPECTION OF PREMISES.

Any private club or public place paying a fee under this subchapter shall be open for inspection at all reasonable times by police officers of the city and by the Department of Public Safety and its agents. Refusal to permit such inspection shall be a violation of this subchapter.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011) Penalty, see § 117.600

§ 117.440 PREMISES LICENSED FOR SALE OF LIQUOR.

This subchapter does not apply to any premises licensed for the sale of intoxicating liquor.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.450 ADDITIONAL PROVISIONS ADOPTED.

The provisions of §§ 117.120 through 117.130 shall apply to all premises licensed under this subchapter, as if hereinafter fully set forth.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011)

§ 117.600 CIVIL PENALTY; ALL LIQUOR LICENCES.

(A) *Penalty for noncompliance.* In addition to any criminal penalties which may be imposed by a court of law, the City Council may suspend a license for up to 60 days, may revoke a license and/or may impose a civil fine on a licensee not to exceed \$2,000 for each violation on a finding that the license holder or its employee has failed to comply with a statute, rule or ordinance relating to alcoholic beverages, non- intoxicating malt liquor or wine. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty.

(B) *Minimum penalty.* The purpose of this section is to establish a standard by which the CityCouncil determines the civil fine, 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 Council may deviate in an individual case where the Council finds that there exist certain extenuating or aggravating circumstances, 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 or, in the converse, when a licensee has a history of repeated violations of state or local liquor laws. When deviating from these standards, the Council will provide written findings that support the penalty selected. When a violation occurs, the staff shall provide information to the City Council to either assess the presumptive penalty or depart upward or downward based on extenuating or aggravating circumstances. The staff shall notify the licensee of the information being considered and acted upon by the City Council.

(1) Except as otherwise provided in this chapter, the following violations will subject the licensee to the following administrative penalties:

| Type of Violation | 1st Violation | 2nd Violation | 3rd Violation | 4th Violation |
|---|---------------|------------------------------|------------------------------|---------------|
| Sale of alcoholic beverage to a person under the age of 21 | \$250 | \$1,000 and 1 day suspension | \$2,000 and 5 day suspension | Revocation |
| Sale of alcoholic beverage to an obviously intoxicated person | \$250 | \$1,000 and 1 day suspension | \$2,000 and 5 day suspension | Revocation |
| Failure of an on-sale licensee to take reasonable | | \$1,000 and | \$2,000 and | |

| | | | | |
|---|-------------------------------|--------------------------------|------------------|------------|
| steps to prevent a person from leaving the premises with an alcoholic beverage (on-sale allowing off-sale) | \$250 | 1 day suspension | 5 day suspension | Revocation |
| Refusal to allow city inspectors or police admission to premises | \$1,000 and 7 days suspension | \$2,000 and 14 days suspension | Revocation | N/A |
| After hours sale, possession by a patron or consumption of alcoholic beverages | \$1,000 and 7 days suspension | \$1,000 and 14 days suspension | Revocation | N/A |
| Illegal gambling on premises | \$1,000 and 7 days suspension | \$2,000 and 14 days suspension | Revocation | N/A |
| Sale of alcoholic beverages while license is under suspension | 60 day suspension | Revocation | N/A | N/A |
| Sale of intoxicating liquor with only 3.2% malt liquor license | Revocation | N/A | N/A | N/A |
| Commission of a felony related to licensed activity | Revocation | N/A | N/A | N/A |

(2) Any prior violation that occurred more than 24 calendar months immediately preceding the most current violation will not be considered in determining successive violations.

(3) In addition to the administrative penalties identified above, the city may in appropriate circumstances choose to not renew a license at the end of its current term for any and all reasons allowed by law.

(4) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council.

(C) *Hearing and notice.* If, after considering the staff's information, the City Council proposes to suspend or revoke a license, the licensee shall be provided written notice of the City Council's proposed action and shall be given the opportunity to request a hearing on the proposed penalty by providing the city a written notice requesting a hearing within ten days of the mailing of the notice of the City Council's proposed action. The notice of the proposed action of the City Council shall state the nature of the charges against the licensee and the action the City Council proposes to take, shall inform the licensee of the right to request a hearing prior to the action being final, and shall inform the licensee of the date the City Council's proposed action will be considered a final decision if a hearing is not requested. Any hearing, if requested, will be conducted in accordance with M.S. § 340A.415 and §§ 14.57 to 14.69 of the Administrative Procedures Act ("APA"). If a hearing is requested, the licensee shall be provided a hearing notice at least ten days prior to the hearing, which shall state the date, time and place of the hearing and the issues involved in the hearing. An independent hearing officer shall conduct the hearing and shall make a report and recommendation to the City Council pursuant to the provisions of the APA. The City Council shall consider the independent hearing examiner's recommendation and issue its final decision on the suspension or revocation.

(1) Non-payment of the penalty is grounds for suspension or revocation of the license.

(2) Suspension or revocation shall occur within 60 days following a violation for which the suspension or revocation is imposed.

(3) Suspensions will be applied as a starting point on a Saturday, and move in a backwards manner through the weekdays until the full length of the suspension is plotted.

(Ord. 707, passed 6-21-2011; Am. Ord. 710, passed 11-15-2011; Am. Ord. 749, passed 1-19- 2016)

CHAPTER 118: TOBACCO REGULATIONS

Section

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§ 118.01 PURPOSE AND INTENT.

Because 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 nicotine or lobelia delivery devices, and the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years, and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.

(Am. Ord. 720, passed 1-3-13)

§ 118.02 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.

COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of minors as authorized by this chapter. **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia

delivery devices for educational, research and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices.

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% 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.

LOOSIES. The common term used to refer to a single or individually packaged cigarette, or any other tobacco product that has been removed from its packaging and sold individually.

MINOR. Any natural person who has not yet reached the age of 18 years.

NICOTINE OR LOBELIA DELIVERY DEVICES. Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

RETAIL ESTABLISHMENT. Any place of business where tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices are available for sale to the general public. The phrase shall include, but not be 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, tobacco-related devices, or nicotine or lobelia delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device between the customer and the licensee or employee. The phrase shall not include vending machines. **SELF-SERVICE SALES** are interpreted as being any sale where there is not an actual physical exchange of the tobacco between the clerk and the customer.

SMOKING. Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product. **SMOKING** also includes carrying a lighted or heated cigar, cigarette, pipe, hookah, 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, snuff, fine cut or other chewing tobacco, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco, snuff flowers, cavendish, shorts, plug and twist tobaccos, dipping tobaccos, refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco leaf prepared in a manner as to be suitable for chewing, sniffing, smoking or ingestion by any other means, including dissolvable or absorbable products. **TOBACCO** does not include any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

TOBACCO-RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers, ashtray or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or ingestion by any other means of tobacco or tobacco products. **TOBACCO-RELATED DEVICES** do not include any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

VENDING MACHINE. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device.

(Am. Ord. 720, passed 1-3-13; Am. Ord. 747, passed 1-19-2016)

§ 118.03 LICENSE.

(A) *License required.* No person shall sell or offer to sell any tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices without first having obtained a license to do so from the city.

(B) *Application.* An application for a license to sell tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Manager shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Manager shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(C) *Action.* The City Council may either approve or deny the license, or it may delay action for a reasonable period of time it deems necessary to complete any investigation of the application or the applicant. If the City Council shall approve the license, the City Manager shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant, along with notice of the applicant's right to appeal the City Council's decision.

(D) *Duration of license.* Unless otherwise specified, a license shall be valid for a year or the part of the year for which it is issued, and shall expire on June 30.

(E) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in § 118.99.

(F) *Transfers.* All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

(G) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

(H) *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, but no more than 60 days, before the expiration of the current license.

(I) *Issuance as privilege and not a right.* The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant, and shall not entitle the holder to an automatic renewal of the license.

(J) *Smoking.* Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling tobacco, tobacco-related products, or nicotine or lobelia delivery devices is prohibited.

(Am. Ord. 720, passed 1-3-13; Am. Ord. 747, passed 1-19-2016) Penalty, see § 118.99

§ 118.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be as established from time to time by Council ordinance, as it may be amended from time to time.

Penalty, see § 118.99

§ 118.05 BASIS FOR DENIAL OF LICENSE.

(A) Grounds for denying the issuance or renewal of a license under this chapter include, but are not limited to, the following:

(1) The applicant is under the age of 18 years.

(2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision or other regulation relating to tobacco or tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices.

(3) The applicant has had a license to sell tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices revoked within the preceding 12 months of the date of application.

(4) The applicant fails to provide any information required on the application, or provides false or misleading information.

(5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation from holding a license.

(B) However, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.

(C) 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 chapter.

(Am. Ord. 720, passed 1-3-13) Penalty, see § 118.99

§ 118.06 PROHIBITED SALES.

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device:

(A) To any person under the age of 18 years.

(B) By means of any type of vending machine.

(C) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device, and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device between the licensee, or the licensee's employee, and the customer.

(D) By means of loosies as defined in § 118.02.

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.

(F) By any other means, to any other person, in any other manner or form prohibited by federal, state or other local law, ordinance provision or other regulation.

(Am. Ord. 720, passed 1-3-13) Penalty, see § 118.99

§ 118.07 SELF-SERVICE SALES.

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices by any means whereby the customer may have access to those items without having to request the item from the licensee, or the licensee's employee, and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device between the licensee, or his or her clerk, and the customer. All tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices at the time this chapter is adopted shall comply with this section within 90 days following the effective date of this chapter.

(Am. Ord. 720, passed 1-3-13) Penalty, see § 118.99

§ 118.08 RESPONSIBILITY.

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices on the licensed premises, and the sale of an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

(Am. Ord. 720, passed 1-3-13) Penalty, see § 118.99

§ 118.09 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years, but less than 18 years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia 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, tobacco-related devices, or nicotine or lobelia delivery devices when those 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 his or her employee, and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law.

(Am. Ord. 720, passed 1-3-13) Penalty, see § 118.99

§ 118.10 OTHER ILLEGAL ACTS.

Unless otherwise provided, the following acts shall be a violation of this chapter:

(A) *Illegal sales.* It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, tobacco-related devices, or nicotine or lobelia delivery devices to any minor.

(B) *Illegal possession.* It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device. This division (B) shall not apply to minors lawfully involved in a compliance check.

(C) *Illegal use.* It shall be a violation of this chapter for any minor to smoke, chew, snuff or otherwise use any tobacco, tobacco product, tobacco-related devices, or nicotine or lobelia delivery devices.

(D) *Illegal procurement.* It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain those items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device. This division (D) shall not apply to minors lawfully involved in a compliance check.

(E) *Use of false identification.* It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Am. Ord. 720, passed 1-3-13) Penalty, see § 118.99

§ 118.11 EXCEPTIONS AND DEFENSES.

Nothing in this chapter shall prevent the providing of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

(Am. Ord. 720, passed 1-3-13)

§ 118.99 VIOLATIONS AND PENALTY.

(A) *Violations.*

(1) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(2) *Hearings.* If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which

shall be published and provided to the accused violator.

- (3) *Hearing Officer.* The city official designated by the City Council shall serve as the hearing officer.
- (4) *Decision.* If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under division (B) of this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those 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 for the city in which the alleged violation occurred.
- (6) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this chapter.
- (7) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
- (B) *Administrative penalties.*
 - (1) *Licensees.* Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of \$200 for a first violation of this chapter; \$400 for a second offense at the same licensed premises within a 24-month period plus a three-day suspension of the license; and \$500 for a third or subsequent offense at the same location within a 24-month period plus a ten-day suspension of the license.
 - (2) *Other individuals.* Other individuals, other than minors regulated by division (B)(3) of this section, found to be in violation of this chapter shall be charged an administrative fee of \$50.
 - (3) *Minors.* Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices, shall be subject to an administrative fine, or may be subject to tobacco-related education classes, diversion programs, community services, or another penalty that the city believes will be appropriate and effective. The administrative fine or other penalty shall be established by City Council ordinance, upon the City Council's consultation with interested parties of the courts, educators, parents and children to determine an appropriate penalty for minors in the city. This administrative fine or other penalty may also be as established from time to time by Council resolution, as it may be amended from time to time.
 - (4) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.
 - (5) *Statutory penalties.* If the administrative penalties authorized to be imposed by M.S. § 461.12, as it may be amended from time to time, differ from those established in this section, then the statutory penalties shall prevail.

(Am. Ord. 720, passed 1-3-13)

CHAPTER 119: PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Section

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§ 119.01 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 building for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 90 consecutive days. The location of transient merchants shall be regulated by the zoning regulations.

§ 119.02 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.

§ 119.03 LICENSING; EXEMPTIONS; FEE.

(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.

(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 § 119.07.

(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 five 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 three 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.
- (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, as it may be amended from time to time.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Manager, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Manager determines that the application is incomplete, the City Manager must inform the applicant of the required necessary information that is missing. If the application is complete, the City Manager must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the City Manager must issue the license unless there exist grounds for denying the license under § 119.04, in which case the City Manager must deny 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 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.

(F) *Duration.* An annual license granted under this chapter shall be valid for one 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 the same property as the person resides.

(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 fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

(4) Fee. The City Council shall establish an annual fee by ordinance that shall not be prorated.

Penalty, see § 10.99

§ 119.04 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 five 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 five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.

(E) The applicant is 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 three 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 three complaints filed against the applicant within the preceding five years.

§ 119.05 LICENSE SUSPENSION AND REVOCATION.

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Manager 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 § 119.04.

(4) Violation of any provision of this chapter.

(B) *Multiple persons under one 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 ten 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 three regular business days of the hearing, the City Manager shall notify the licensee of the decision of the City Council.

(E) *Emergency.* If, in the discretion of the City Manager, 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) of this section.

(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

§ 119.06 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

§ 119.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 119.03, 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 non-transferable.

Penalty, see § 10.99

§ 119.08 PROHIBITED ACTIVITIES; LOCATION.

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.

(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.

(H) Transient merchants shall be prohibited except in the B2 and B3 Zoning Districts.

Penalty, see § 10.99

§ 119.09 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 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

CHAPTER 120: ADULT USE

Section

- 120.01 Purpose
- 120.02 Findings
- 120.03 Definitions
- 120.04 Exceptions
- 120.05 License required
- 120.06 Persons ineligible
- 120.07 Places ineligible
- 120.08 License application
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- 120.10 Granting of licenses
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- 120.12 Restrictions and regulations
- 120.13 Suspensions and revocation of license

- 120.99 Penalty

Appendix: Resolution adopting the findings of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*

§ 120.01 PURPOSE.

The purpose of this chapter is to prescribe licensing requirements for sexually oriented businesses to protect the public health, safety, and welfare and to prevent criminal activity and the spread of sexually- transmitted diseases.

§ 120.02 FINDINGS.

The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations and conclusions of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* dated June 6, 1989, a copy of which is on file in the office of the City Clerk. This chapter shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in the Appendix of this chapter.

(A) Sexually oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, increasing the demands on city crime-prevention programs and law enforcement services.

(B) Sexually oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that proper management and operation of such businesses can minimize this risk.

(C) Sexually oriented businesses can increase the risk of exposure to communicable diseases, including Acquired Immune Deficiency Syndrome (AIDS), for which there is currently no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, endangering not only the patrons of such establishments but also the general public.

(D) Sexually oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

(E) A licensing and regulatory scheme as prescribed in this chapter can facilitate the enforcement of the city's "anti-bligh" regulations, as set forth in Chapter 153 of this code, and can aid in monitoring sexually oriented businesses for adverse secondary effects on the community.

(F) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed in this chapter.

§ 120.03 DEFINITIONS.

The following words and terms have the following meanings when used in this chapter.

SEXUALLY ORIENTED BUSINESS. Shall include the following:

(1) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:

(a) Has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials;

(b) Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually oriented materials; or

(c) Derives more than 25% of its gross revenues from sexually oriented materials; or

(2) A business that engages for any length of time in a sexually oriented use as defined in this section or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

SEXUALLY ORIENTED MATERIALS. Visual, printed, or aural materials, and other objects or devices, that:

(1) Contain, depict, simulate or describe specified sexual activities or specified anatomical areas; or

(2) Are marketed for use in conjunction with, or are primarily used only with or during specified sexual activities; or

(3) Are designed for sexual stimulation.

SEXUALLY ORIENTED USE. Any of the following activities and businesses, even if the activity exists for only a short-time:

(1) **ADULT BODY PAINTING STUDIO.** An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

(2) **ADULT BOOKSTORE.** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film if it meets the criteria established in the definition of "sexually oriented business," as defined in this section.

(3) **ADULT CABARET.** A business or establishment that provides dancing or other live entertainment distinguished or

characterized by an emphasis on:

- (a) The depiction of nudity, specified sexual activities or specified anatomical areas; or
- (b) The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) **ADULT COMPANIONSHIP ESTABLISHMENT.** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) **ADULT CONVERSATION/RAP PARLOR.** A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) **ADULT HEALTH/SPORT CLUB.** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) **ADULT HOTEL OR MOTEL.** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(8) **ADULT MASSAGE PARLOR/HEALTH CLUB.** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(9) **ADULT MINI-MOTION PICTURE THEATER.** A business or establishment with a capacity of less than 50 persons that, as a prevailing practice, presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(10) **ADULT MODELING STUDIO.** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

(11) **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one 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.

(12) **ADULT MOTION PICTURE THEATER.** A motion picture theater with a capacity of 50 or more persons that, as a prevailing practice, presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

(13) **ADULT NOVELTY BUSINESS.** An establishment or business that has a variety of items for sale if it meets the criteria established in division (1) of the definition of "sexually oriented business" defined in this section.

(14) **ADULT SAUNA.** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(15) **ADULT STEAM ROOM/BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(16) **ADULT INTERNET SITE/FACILITY.** A building or portion of a building used for providing internet access for the pleasure of providing internet web site access for adult material.

SPECIFIED ANATOMICAL AREAS. Shall include the following:

- (1) Less than completely and opaquely covered human genitals, pubic area, buttocks, anus, or female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Shall include the following:

- (1) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zooerastia;
- (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 regions, buttocks, or female breasts;
- (5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person;
- (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.

§ 120.04 EXCEPTIONS.

This chapter does not regulate the following:

- (A) Material with significant literary content or social commentary;
- (B) A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time, and each item is in an area accessible only by an employee of the business;
- (C) A person or organization exempted under M.S. § 617.295, as it may be amended from time to time;
- (D) Activity regulated under M.S. § 617.251, as it may be amended from time to time;
- (E) Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale, and the business does not have a liquor license; and
- (F) Movies rated G, PG, PG-13, NC-17 or R.

§ 120.05 LICENSE REQUIRED.

No person may own or operate a sexually oriented business within the city unless the person is currently licensed under this chapter.

Penalty, see § 120.99

§ 120.06 PERSONS INELIGIBLE.

No license may be issued to a person who:

- (A) Is not a citizen of the United States or a resident alien;
- (B) Is a minor at the time the application is filed;
- (C) Has been convicted of a crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator or manager of a sexually oriented business under M.S. § 364.03, Subd. 3, as it may be amended from time to time, or a person not of good moral character and repute;
- (D) Holds a liquor license under Minnesota Basic Code Chapter 112.
- (E) In the judgment of the licensing authority, is not the real party in interest or beneficial owner of the business operated under the license;

(F) Has had a license for a sexually oriented business or similar business revoked anywhere within five years of the license application; or

(G) In the case of an individual, is not a resident of the state; in the case of a partnership, the managing partner is not a resident of the state; or in the case of a corporation, the manager is not a resident of the state. The required residency must be established by the time the license is issued and maintained throughout the existence of the license and all renewals. The time for establishing residency may, for good cause, be extended by the licensing authority.

Penalty, see § 120.99

§ 120.07 PLACES INELIGIBLE.

No license may be issued for:

(A) A place or a business ineligible for a license under city ordinance or state law;

(B) Operation in a zoning district where the business is not allowed pursuant to Chapter 154 of this code;

(C) A place or business that is currently licensed as a tattoo establishment, pawnshop, massage business or establishment that sells alcoholic beverages; or

(D) Operation on a premises on which taxes, assessments or other financial claims of the city or other government agency are delinquent and unpaid, unless the non-payment is not under the control of the applicant.

Penalty, see § 120.99

§ 120.08 LICENSE APPLICATION.

(A) The application for a sexually oriented business license under this chapter must be made on a form supplied by the city and must provide the following information:

(1) The business in connection with which the proposed license will operate;

(2) The location of the business premises;

(3) The legal description of the premises to be licensed, including a map of the area for which the license is sought, showing dimensions, locations of buildings, street access and parking facilities;

(4) 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;

(5) Whether the applicant is the owner and operator of the business and if not, who is;

(6) Whether the applicant has ever used or been known by a name other than his or her true name, and if so, what was the name or names, and information concerning dates and places where used;

(7) Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;

(8) Street address at which the applicant and spouse have lived during the preceding ten years;

(9) Kind, name and location of every business or occupation the applicant and spouse have been engaged in during the preceding ten years;

(10) Names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding ten years;

(11) Whether the applicant or spouse has ever been convicted of a violation of a state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for which convictions were had;

(12) Whether the applicant or spouse has ever been engaged as an employee or in operating a sexually oriented business, massage business, or other business of a similar nature. If so, the applicant must furnish information as to the time, place and length of

time;

(13) Whether the applicant has ever been in military service. If so, the applicant must, upon request, exhibit all discharges;

(14) If the applicant is a partnership, the name and address of all partners and all information concerning each partner as is required of a single applicant as above. A managing partner or partners must be designated. The interest of each partner or partners in the business must be submitted with the application and, 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 copy of the certificate must be attached to the application;

(15) If the applicant is a corporation or other organization, the applicant must submit the following:

(a) Name, and if incorporated, the state of incorporation;

(b) Names and addresses of all officers;

(c) The name of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, giving all information about said person as is required in the case of a single applicant; and

(d) A list of all persons who, single or together with their spouse, own or control an interest in said corporation or association in excess of 5% or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.

(16) The amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture or stock-in-trade, and proof of the source of the money;

(17) A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or city employees in case of emergency. These persons must be residents of the state.

(18) Whether the applicant holds a current license for a sexually oriented business or similar business from another governmental unit;

(19) Whether the applicant has ever been denied a license for a sexually oriented business or similar business from another governmental unit; and

(20) Other information that the city deems appropriate.

(B) No person may make a false statement or material omission in a license application or investigation. A false statement or material omission is grounds for denial, suspension or revocation of a license.

(C) Each licensee has the continuing duty to properly notify the City Manager of a change in the information or facts required to be furnished on the application for a license. This duty continues throughout the period of the license. Failure to comply with this section will constitute cause for revocation or suspension of the license.

(D) The application for the renewal of an existing license must be made at least 90 days prior to the date of the expiration of the license and must be made on the form which the city provides.

Penalty, see § 120.99

§ 120.09 FEES.

(A) An applicant for a license must pay to the city the investigation fee as established from time to time by Council ordinance, as it may be amended from time to time. This fee will be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the city believes that the public interest so warrants, it may require a similar investigation at the time of renewal of a license. If an investigation is ordered at the time of license renewal, the applicant must pay the fee specified above, except that the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee after the investigation has begun.

(B) The annual fees for a license are as established from time to time by Council ordinance, as it may be amended from time to time.

(C) Each license expires on December 31 of the year in which it is issued. Fees for licenses issued during the license year will be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month will be counted

as a whole month having elapsed.

(D) No refund of a fee will be made except as authorized by ordinance.

§ 120.10 GRANTING OF LICENSES.

(A) No license may be issued until the Police Department has conducted an investigation of the representations set forth in the application, the applicant's moral character, and the applicant's financial status. All applicants must cooperate this investigation.

(B) No license, except for a renewed license, may be issued for a sexually oriented business until the Council has held a public hearing. Notice of the hearing must be made in the same manner as that specified in Chapter 154 of this code, for a zoning ordinance amendment affecting district boundaries. The Council must grant the license unless the applicant or the location does not meet the requirements of the city code, the application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application. If the Council fails to act on the application within 45 days after receipt of a complete application, the application will be deemed approved. An applicant wishing to appeal the action of the City Council may seek a writ of certiorari before the Minnesota Court of Appeals.

(C) (1) The City Council may issue a license before an investigation, notice and public hearing for an applicant who:

(a) Had a license within the previous five years for the establishment that is specified in the application and that is continuing to operate under a license;

(b) Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;

(c) Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and

(d) Otherwise qualifies and meets the requirements for a license.

(2) In this situation, the City Council may immediately issue an interim license to the applicant for a period of no longer than 90 days. The applicant must then proceed through the specified requirements for an investigation, notice, and public hearing. At the public hearing the Council will decide whether the license should continue in effect or be revoked. The applicant has no greater right to continuation of the license than he or she would have had to issuance of a new license following the normal procedure without the interim license.

(D) A license will be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application in the same manner as an application for a new license. Transfer of 25% or more of the stock of a corporation or of a controlling interest of it, whichever is less, will be deemed a transfer of the license. If the licensee is a corporation that is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest will apply to that parent corporation, any second parent corporation that wholly owns the parent corporation, and all other similarly situated parent corporations up through the chain of ownership. Transfer of this amount of stock without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval will be a separate violation of this chapter.

(E) In the case of the death of a licensee, the personal representative of a licensee may continue operation of the business for not more than 90 days after the licensee's death.

§ 120.11 CONDITIONS OF LICENSE.

(A) A license is subject to the conditions in this section, all other provisions of this chapter, and of other applicable regulations, ordinances or state laws.

(B) A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this chapter equally with the employee, except criminal penalties.

(C) The license must be posted in a conspicuous place in the premises for which it is used.

Penalty, see § 120.99

§ 120.12 RESTRICTIONS AND REGULATIONS.

A sexually oriented business is subject to the following restrictions and regulations:

- (A) No owner, manager or employee may allow sexually oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
- (B) No owner, manager or employee may allow a person under the age of 18 to enter the business.
- (C) No owner, manager or employee may allow a person under the age of 18 to have access to sexually oriented materials, whether by sight, purchase, touch or other means.
- (D) No owner or manager may employ a person under the age of 18 on the licensed premises.
- (E) No owner, manager, or employee may have been convicted of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse within the past five years.
- (F) No business may exceed 10,000 square feet in gross floor area.
- (G) No owner, manager or employee may allow a patron, employee, or other person on the premises to physically contact, in public view, a specified anatomical area of himself or herself or of another person, except that a live performer may touch himself or herself.
- (H) A live performer must remain at all times a minimum distance of ten feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item from a member of the audience.
- (I) No business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:
 - (1) Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and
 - (2) Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and no person other than the owner, manager and employees is allowed in them.
- (J) A licensee must not be open for business to the public:
 - (1) Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday; and
 - (2) Between 1:00 a.m. and 12:00 noon on Sundays.

Penalty, see § 120.99

§ 120.13 SUSPENSIONS AND REVOCATIONS OF LICENSE.

(A) *Delinquent taxes.* The City Council may suspend or revoke a license issued under this chapter for operation on a premises on which real estate taxes, assessments or other financial claims of the city or of the state are due, delinquent, or unpaid, unless the non-payment is not under the control of the licensee. If an action has been commenced under M.S. Chapter 278, as it may be amended from time to time, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or a portion of them, that remain unpaid for a period exceeding one year after becoming due, unless the one-year period is extended through no fault of the licensee.

(B) *Violations.*

(1) The Council may either suspend for up to 60 days or revoke a license for a violation upon a finding that the licensee or an agent or employee of the licensee has failed to comply with an applicable statute, regulation or ordinance relating to the subject matter of this chapter or violated the statutes in division (B)(2) of this section. No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 to 14.69, as they may be amended from time to time, with the exception of the suspension provided for in division (B)(2) of this section.

(2) Conviction of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse

by the licensee will result in the immediate suspension pending a hearing on revocation of a license issued under this chapter.

§ 120.99 PENALTY.

Except as otherwise provided by state law, a person violating a provision of this chapter is subject to the penalties established in § 10.99. A fine or sentence imposed does not affect the right of the city to suspend or revoke the license of the licensee as the Council deems appropriate.

APPENDIX

RESOLUTION ADOPTING THE FINDINGS OF THE *REPORT OF THE ATTORNEY GENERAL'S WORKING GROUP ON THE REGULATION OF SEXUALLY ORIENTED BUSINESSES*

WHEREAS because of its small size, the city lacks the resources to investigate and research the impact sexually oriented businesses would have on the character of the city's neighborhoods; and

WHEREAS the city intends to rely on the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, dated June 6, 1989, which is included as Appendix II to Chapter 119 of the Minnesota Basic Code, as a basis for regulating sexually oriented businesses in this city; and

WHEREAS the members of the City Council have reviewed this Report;

NOW THEREFORE, the City Council of this City hereby accepts the recommendations and conclusions of this Report and adopts the recommendations and conclusions by reference of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, dated June 6, 1989; and by passage of this resolution implements the provisions of Minnesota Basic Code Chapters 119 and 153.

Signed: _____

Mayor

Attest: _____

City Manager

Note: If this resolution is being adopted only to implement the provisions of Minnesota Basic Code § 150.05, then the words "and by passage of this resolution implements the provisions of Minnesota Basic Code Chapters 119 and 153" in the last paragraph above should be deleted from the resolution.

CHAPTER 121: GAS STATIONS

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- 121.01 Regulation
- 121.02 License required; definition
- 121.03 Fee
- 121.04 Permit
- 121.05 Inspection
- 121.06 Transfer
- 121.07 Business hours

§ 121.01 REGULATION.

In order to safeguard the public against fire, explosion or environmental contamination, the city shall regulate and license gas stations.
(Ord. 646, passed 8-19-2003)

§ 121.02 LICENSE REQUIRED; DEFINITION.

(A) No person shall engage in the business of keeping, maintaining or operating any gas station in North Saint Paul without a license.

(B) A ***GAS STATION*** means and includes any place, building, pump or device maintained and used on private premises or upon any public place for the main purpose of selling or dispensing gasoline, oil or any automotive fuel for use in motor vehicles of any kind.

(Ord. 646, passed 8-19-2003)

§ 121.03 FEE.

The fees required for licenses shall be established by ordinance and may be amended from time to time.

(Ord. 646, passed 8-19-2003)

§ 121.04 PERMIT.

It shall be unlawful for any person, firm or corporation to install, operate or maintain any curb pump or other gasoline dispensing device on any private or other public property within the city; without first securing a permit for the installation, maintenance and operation of such facilities in any public highway and without the portion thereof designed for vehicular traffic, except in a district classified as residential by virtue of the zoning code, when facilities shall be installed, maintained and operated exclusively for the supplying of gasoline not for public sale, but for private use in and upon the abutting premises; provided, that there be compliance with all other codes.

(Ord. 646, passed 8-19-2003)

§ 121.05 INSPECTION.

It shall be the duty of the Fire Department to inspect all gas stations at various and reasonable times for the purpose of ascertaining whether the provisions of all ordinances and laws pertaining to precaution against damage from fire and explosion have been complied with in the construction, operation and maintenance of gas stations, and to enforce the same. Inspection may also be made at any reasonable time for the purpose of ascertaining whether construction, remodeling or repairs have been accomplished in accord with plans or specifications required to be filed with the city.

(Ord. 646, passed 8-19-2003)

§ 121.06 TRANSFER.

Licenses shall not be transferrable.

(Ord. 646, passed 8-19-2003)

§ 121.07 BUSINESS HOURS.

Where a reasonable basis is found by the Council to exist and to protect the adjacent property and the public peace, health and safety, the Council, upon issuing a new license or renewing a license, may impose as a condition on the license a limitation as to the

hours when the business may remain open.

(Ord. 646, passed 8-19-2003)

CHAPTER 122: SPECIAL EVENT PERMITS

Section

- 122.01 Purpose and intent
- 122.02 Definitions
- 122.03 Permit required
- 122.04 Requirements for issuance of a permit
- 122.05 Application procedures
- 122.06 Fees
- 122.07 Granting a permit
- 122.08 Denial of permit
- 122.09 Transferability
- 122.10 Enforcement and penalties
- 122.11 Revocation of permit
- 122.12 Special event vendors

§ 122.01 PURPOSE AND INTENT.

The purpose of this chapter is to promote the orderly, compatible and safe use of property for temporary special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, peace and tranquility of residential neighborhoods and safety services.

(Ord. 668, passed 5-6-08)

§ 122.02 DEFINITIONS.

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

APPLICANT. Any individual, partnership, corporation, association, society or group seeking and/or receiving a special event permit from the city.

OUTDOOR. Activity conducted outside of a permanent structure or building.

PERMIT. A permit issued by the city to allow a special event.

PERSON. Any person, association, partnership, firm, business trust, corporation or company.

SPECIAL EVENT. Any temporary, outdoor privately-sponsored event open to the general public and held on public or privately owned property. **SPECIAL EVENT** shall not apply to the following:

- (1) Any permanent place of worship, stadium, athletic field, arena, theatre, auditorium, or fairs conducted pursuant to M.S. Chapter 38.

- (2) Special events or activities permitted or permitted by other state laws or regulations of the City of North St. Paul, including publicly-sponsored activities in the local park system and any other established special event operating prior to adoption of this chapter.
- (3) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings, and the like.
- (4) Garage sales.
- (5) Events such as but not limited to National Night-Out established through the City of North St. Paul.

(Ord. 668, passed 5-6-08)

§ 122.03 PERMIT REQUIRED.

No person on or after the effective date of this chapter shall conduct or allow to be conducted any special event as defined in this chapter without first obtaining a special event permit.

(Ord. 668, passed 5-6-08)

§ 122.04 REQUIREMENTS FOR ISSUANCE OF A PERMIT.

The following standards shall apply to all special events:

(A) *Maximum number of people.* The permittee shall not sell tickets to nor permit attendance at the permit location of more than the maximum number of people stated in the special event permit.

(B) *Sound equipment.* Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operation on the premises of the special event so as to be unreasonably loud or be a nuisance or disturbance to the peace and tranquility of the citizens of North St. Paul.

(C) *Sanitary facilities.* In accordance with Minnesota State Board of Health regulations and standards and local specifications, adequate sanitary facilities must be provided which are sufficient to accommodate the projected number of person expected to attend the event.

(D) *Security.* The permittee shall employ at his or her own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons in attendance at the special event and for the preservation of order and protection of property in and around the event site. No permit shall be issued unless the city's Chief of Police is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the event.

(E) *Food service.* If food service is made available on the premises, it shall be delivered only through concessions permitted by the Ramsey County Health Department.

(F) *Fire protection.* The permittee shall, at his or her own expense, take adequate steps to insure fire protection as determined by the City of North St. Paul Fire Chief.

(G) *Duration of special event.* The permittee shall operate the special event only on those days and during the hours specified on the permit.

(H) *Cleanup plan.* The special event applicant is responsible for clean up. Any clean up required by the city may be charged to the applicant. Any city service that requires overtime will be at the expense of the applicant.

(I) *Waiver.* The City Council may grant a waiver from the requirements of this chapter in any particular case where the applicant can show that strict compliance with this chapter would cause exceptional and undue hardship by reason of the nature of the special event or by reason of the fact that the circumstances make the requirement of this chapter unnecessary. Such waiver must be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of these regulations.

(J) *Insurance.* Before the issuance of a permit, the permittee shall obtain public liability insurance and property damage insurance with limits determined by the City Manager. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the City Clerk in writing at least ten days before the expiration or cancellation of the insurance.

(K) *Miscellaneous.* Prior to the issuance of a permit, the City Council may impose any other conditions reasonably calculated to

protect the health, safety and welfare of persons attendant or of the citizens of the City of North St. Paul.

(Ord. 668, passed 5-6-08)

§ 122.05 APPLICATION PROCEDURES.

A written application for a special event permit shall be filed on forms provided by the city with the City Manager not less than 30 days before the date proposed for holding the special event. The written application shall be signed by the person, persons, or parties conducting the event and shall be accompanied by the fee payable hereunder. Upon submission of an application for a special event permit, City Staff will review the request and advise the applicant of the need for additional information, if any.

(Ord. 668, passed 5-6-08)

§ 122.06 FEES.

The fee for a special event license shall be as established by the City Council.

(Ord. 668, passed 5-6-08)

§ 122.07 GRANTING A PERMIT.

The City Council, in its sole discretion, reserves the right to review and determine whether or not a request for a special event and/or street closing is acceptable. It is the stated purpose of the City Council that all such special events and/or street closing shall be for family-friendly activities only. Special event activities must be inclusive of events and activities for both adults and children. In the event the City Council determines the activity does not meet these criteria, such application shall be denied.

(Ord. 668, passed 5-6-08)

§ 122.08 DENIAL OF PERMIT.

The City Council shall have the right to deny the permit if, in the judgment of the City Council, the granting of a license would adversely affect the safety, health and welfare of the citizens of North St. Paul. The applicant shall be notified of such denial and may appear before the City Council to appeal such denial.

(Ord. 668, passed 5-6-08)

§ 122.09 TRANSFERABILITY.

No permit granted under this chapter shall be transferred to any other person or place without consent of the City Council, upon written application made therefore.

(Ord. 668, passed 5-6-08)

§ 122.10 ENFORCEMENT AND PENALTIES.

(A) The Police Department and other such officers, employees, or agents as the City Council or City Manager may designate, shall enforce the provisions of this chapter.

(B) The holding of a special event in violation of any provision of this chapter shall be deemed a public nuisance and may be abated as such.

(C) Any person violation any provision of this chapter is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

(Ord. 668, passed 5-6-08)

§ 122.11 REVOCATION OF PERMIT.

The permit for a special event may be revoked by the City Council at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with or if any of the provisions of this chapter are violated.

(Ord. 668, passed 5-6-08)

§ 122.12 SPECIAL EVENT VENDORS.

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

VENDORS. A person who temporarily sets up business on public or private property for purposes of selling or delivering goods in conjunction with a City approved Special Event.

(B) *License.* All special event vendors shall be licensed by the city.

(C) *Process.* The City Manager shall determine appropriate requirements to safeguard the health, safety and welfare of the community and its inhabitants. Forms shall be determined by the City Manager to gather the necessary information to assure safety.

(D) *Fees.* All special event vendors shall pay an inspection fee to the city as determined by the City Council. Exception to the fee following shall be exempt from the city fee:

- (1) All public charities as defined by IRS Code 501C(3);
- (2) Any governmental institution; and
- (3) Any business headquartered in the City of North St. Paul.

(E) *Umbrella fee.* Any special event conducted by a public charity as defined by IRS Code 501C(3) is subject to one special event vendor fee for all vendors conducting business at the special event.

(Ord. 668, passed 5-6-08)

CHAPTER 123: BLOCK PARTIES

Section

- 123.01 Purpose
- 123.02 Definition
- 123.03 Permit required
- 123.04 Manner of making application
- 123.05 Administrative rules
- 123.06 Block party fees
- 123.07 Application review
- 123.08 Notice of permit issuance
- 123.09 Revocation of permit

§ 123.01 PURPOSE.

The purpose of this chapter is to set forth regulations as required to facilitate the suitable and orderly use and enjoyment of temporary closed residential city streets, or portions thereof, during organized "block party" activities.

(Ord. 669, passed 5-6-08)

§ 123.02 DEFINITION.

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

BLOCK PARTY. A temporary gathering of people held on a barricaded portion of a public residential street within the city.

(Ord. 669, passed 5-6-08)

§ 123.03 PERMIT REQUIRED.

No person shall engage or participate in, aid, form or hold any block party unless a permit has been properly obtained from the city.

(Ord. 669, passed 5-6-08) Penalty, see § 10.99

§ 123.04 MANNER OF MAKING APPLICATION.

A person seeking issuance of a block party permit shall file an application with the city on forms prescribed by the City Manager. An application for a block party permit shall be filed not less than ten days nor more than 60 days before the proposed date of the block event.

(Ord. 669, passed 5-6-08)

§ 123.05 ADMINISTRATIVE RULES.

The City Manager may establish the necessary administrative rules and guidelines needed to ensure that block parties do not unreasonably disrupt other neighborhood activities or create unreasonable safety hazards for persons in or near the block party. The established administrative rules and guidelines shall periodically be reviewed by the City Council.

(Ord. 669, passed 5-6-08)

§ 123.06 BLOCK PARTY FEES.

The City Council may determine a fee for block party permits as needed to recover the costs of processing permit applications.

(Ord. 669, passed 5-6-08)

§ 123.07 APPLICATION REVIEW.

The Chief of Police shall examine each application submitted for block party permit. Applicants shall be notified as to whether the permit application has been approved or denied within five working days of the date that the application was submitted. In the event that the Chief of Police denies the application, the Chief shall notify the applicant in writing of the reasons(s) for denial.

(Ord. 669, passed 5-6-08)

§ 123.08 NOTICE OF PERMIT ISSUANCE.

Upon issuing a permit, the Chief of Police shall provide a copy of the permit to the Public Works Department and the Fire Chief. The Chief of Police may also provide a copy of the permit to other governmental or private agencies whose customary services may be affected or disrupted by the block party.

(Ord. 669, passed 5-6-08)

§ 123.09 REVOCATION OF PERMIT.

A block party permit may be revoked by the Chief of Police or designee for any violation of this chapter, the established administrative rules or in the event of any emergency constituting an imminent threat to life or property.

(Ord. 669, passed 5-6-08)

CHAPTER 124: PAWN SHOPS

Section

- 124.01 Authority of Council
- 124.02 Definitions
- 124.03 License required
- 124.04 License application, fee, term
- 124.05 Required records
- 124.06 Daily reports to police
- 124.07 Receipt required
- 124.08 Redemption period
- 124.09 Holding period
- 124.10 Police order to hold property
- 124.11 Inspection of items
- 124.12 Label required
- 124.13 Prohibited acts
- 124.14 Denial, suspension or revocation of license
- 124.15 Most restrictive provisions apply
- 124.16 Hours of operation

§ 124.01 AUTHORITY OF COUNCIL.

(A) Pursuant to M.S. § 325J, the city is authorized to establish an ordinance to regulate and enforce guidelines specified under such an ordinance for a pawn shop business within the City of North Saint Paul.

(Ord. 679, passed 7-7-09)

§ 124.02 DEFINITIONS.

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

meaning.

BILLABLE TRANSACTION. Every reportable transaction conducted by a pawnbroker is a billable transaction except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.

PAWN SHOP. A facility where money is loaned based on the value of goods deposited at the facility by the borrower of the money, which goods are held by the pawnbroker of the money occupying the facility as collateral for the loan. Items held by the pawnbroker which are not redeemed by a borrower may be put up for sale at the facility to the general public. For purposes of this chapter a ***PAWN SHOP*** is not to be confused with an antique or second hand store, which such primary business is not the loaning of money for a product received and held.

PAWNBROKER. Any natural person, partnership or corporation, or any other legal entity however organized, either as principal, agent, or employee thereof who loans money on deposit of or pledge for personal property or other valuable things, or who deals in the purchasing of personal property or other valuable things on condition of selling same back again at a stipulated price, or who loans money secured by chattel mortgages 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 chapter shall be applicable.

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 or redeemed, or for which a unique transaction number or identifier is generated by its point-of-sale software, or an item is confiscated by law enforcement, is reportable 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;
- (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; and
- (3) Items purchased from a Minnesota city, county or other political subdivision's law enforcement agency as an alternative to disposing of unclaimed, impounded, seized or confiscated items through public auction or sale, as allowed by state statute or local ordinance.

(Ord. 679, passed 7-7-09)

§ 124.03 LICENSE REQUIRED.

(A) No person, partnership, or corporation shall engage in or carry on the business of a pawnbroker without a license issued by the city for each and every separate office or place of business operated by the licensee in the city. Any pawn transaction made without benefit of a license is void.

(B) A license under this chapter shall authorize the licensee to carry on business only at the permanent place of business designated in the license. No license may be transferred to a different location or different licensee. However, upon written request, the Chief of Police, or Chief's designee, may approve an off-site locked and secured storage facility. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city code. 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 premise that extends for more than six months.

(Ord. 679, passed 7-7-09)

§ 124.04 LICENSE APPLICATION, FEE, TERM.

(A) Every application for a license to maintain, operate or conduct a pawn shop business shall file a complete application under oath with the city upon a form provided by the city and shall pay a nonrefundable application fee in an amount set by ordinance. To be eligible for or to maintain a license, a person must meet the criteria specified in M.S. § 325J.03. The application, once accepted, shall be referred to the North Saint Paul Police Department for investigation. Copies of this application shall be forwarded to such other city departments as the City Council shall deem necessary for verification and investigation of the facts set forth in the application. The

Chief of Police and such other department heads shall make written recommendations to the City Council as to the issuance or non-issuance of the license within 30 days of the filing of the application.

(B) (1) The billable transaction license fee shall be set by ordinance of the City Council and shall reflect the cost of processing transactions from the licensee and other related regulatory expenses as determined by the City Council, and shall be reviewed and adjusted, if necessary, at least every year. Licensees shall be notified in writing 30 days before any adjustment is implemented. Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to make a payment within 30 days is a violation of this chapter.

(2) All licenses shall expire at the end of each calendar year. A new application fee shall be required whenever there is a change in the facts presented by the application other than the date, applicant's home address or building owner's address, or in the case of any license not renewed prior to its expiration.

(C) All applicants requesting a license pursuant to this chapter will be required to submit to a background investigation, including, but not limited to a criminal history check. The complete application form shall contain all information indicated, including:

(1) Full name, place, date of birth, and street residence of the applicant;

(2) The business address of the applicant;

(3) A statement as to whether within the preceding five years, the applicant has been convicted of any felony and/or the violation of any law relating to theft, damage or trespass to property, sale of a controlled substance, or the operation of any business; the nature of any such offense and the penalty assessed;

(4) Whether the applicant is a natural person, corporation or partnership:

(a) If the applicant is a corporation, the state of incorporation and the full names and addresses of all officers and directors;

(b) If the applicant is a partnership, the full names and addresses of all partners;

(5) Whether the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit;

(6) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit;

(7) The location of the business premises;

(8) If the applicant does not own the business premises, a true and complete copy of the executed lease;

(9) The legal description of the premises to be licensed;

(10) 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; and

(11) The full name of the manager or proprietor of the business.

(D) Each application shall be accompanied by a bond in an amount set yearly by the city council, executed by a corporation authorized to do business in Minnesota and conditioned that in conducting the business the licensee will observe all laws in relation to pawnbrokers and will conduct business in conformity thereto and that the licensee will account for and deliver to any person legally entitled any goods which have come into the licensee's hand through the licensee's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person.

(E) The bond shall be maintained for so long as the pawnbroker does business as such for the benefit of the city or any person who shall suffer any damage through the act of the pawnbroker and shall not be terminable without the bond company giving written notice 30 days in advance of termination to the City Clerk.

(F) If the applicant is a natural person, the application shall be signed and sworn to by the person; if a corporation, by the agent authorized to sign; if a partnership, by a partner.

(G) No person shall make any material false statement in the application. In addition to other penalties, the licensee's license may be revoked by the City Council for giving false information on the application.

(Ord. 679, passed 7-7-09) Penalty, See § 10.99

§ 124.05 REQUIRED RECORDS.

(A) At the time of any reportable transaction other than renewals, extensions, redemptions or confiscations, 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 therefore;
- (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;
- (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 any of the following forms of identification of the seller:
 - (a) Current valid Minnesota driver's license;
 - (b) Current valid Minnesota identification card;
 - (c) Current valid photo identification card issued by another state or province of Canada; and/or
- (7) The signature of the person identified in the transaction.

(B) (1) Effective 60 days from the date of notification by the Police Department of acceptable video standards, 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.

(2) If a photograph is taken, it must be at least two inches in length by two 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 it relates. 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 facial image 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 focus on the person pawning or selling the item so as to include an identifiable image 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 by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three months.

(C) Effective 60 days from the date of notification by the Police Department, licensees must fulfill the color photograph requirements in division (B)(2) of this section by submitting them as digital images, in a format specified by the issuing authority, electronically cross- referenced to the reportable transaction they are associated with.

(D) For renewals, extensions, redemptions and confiscations the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

(E) The records must at all reasonable times be open to inspection by the Police Department or Department of Licenses. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

(Ord. 679, passed 7-7-09)

§ 124.06 DAILY REPORTS TO POLICE.

(A) Effective upon the first day of business, the pawnbroker business must secure from the North Saint Paul Police Department the current version of the automated pawn system interchange file specification, licensees must submit every reportable transaction to the Police Department daily in the following manner: licensees must provide to the Police Department all reportable transaction information by transferring it from their computer to the automated pawn system via modem using the current version of the automated pawn system interchange file specification. 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 issuing authority. Any transaction that does not meet the automated pawn system interchange file specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the North Saint Paul Police Department daily.

(B) Licensees will be charged for each billable transaction reported to the Police Department. Fee will be set yearly by the city council.

(1) 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 video tape(s) for that date, by noon the next business day.

(2) 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 continue to provide the required reports as detailed in this section, and shall be charged a \$100 reporting failure penalty daily until the error is corrected.

(3) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in this section, and resubmit all transactions via modem when the error is corrected.

(4) If a licensee is unable to capture, digitize or transmit the photographs required, 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.

(5) 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.

(6) The Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(Ord. 679, passed 7-7-09)

§ 124.07 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 three years. The receipt must include at least the following information:

- (A) The name, address and telephone number of the licensed business;
- (B) The date and time the item was received by the licensee;
- (C) Whether the item was pawned or sold, or the nature of the transaction;
- (D) 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;
- (E) The signature or unique identifier of the licensee or employee that conducted the transaction;
- (F) The amount advanced or paid;
- (G) The monthly and annual interest rates, including all pawn fees and charges;
- (H) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date;
- (I) The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller;
- (J) The identification number and state of issue from any of the following forms of identification of the seller:

- (1) Current valid Minnesota driver's license;
- (2) Current valid Minnesota identification card; and/or
- (3) Current valid photo driver's license or identification card issued by another state or province of Canada;
- (K) Description of the pledger or seller including approximate sex, height, weight, race, color of eyes and color of hair;
- (L) The signature of the pledger or seller; and
- (M) All printed statements as required by M.S. § 325J.04, Subd. 2, or any other applicable statutes.

(Ord. 679, passed 7-7-09)

§ 124.08 REDEMPTION PERIOD.

Any person pledging, pawning or depositing an item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60-day holding period, items may not be removed from the licensed location. 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 pledger at the time of the initial transaction and signed by the pledger, or with approval of the Chief of Police, or Chief's designee. Written authorization for release of property to persons other than the original pledger must be maintained along with original transaction record in accordance with this chapter.

(Ord. 679, passed 7-7-09)

§ 124.09 HOLDING PERIOD.

(A) 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.

(B) All property stored and held during the holding period, and property for sale must be contained within the walls of the licensed business in North St. Paul. No outside storage will be permitted on the premises. Additional storage facilities operated must have the same safeguards and access by police as set forth in this chapter as the physical retail location.

(Ord. 679, passed 7-7-09)

§ 124.10 POLICE ORDER TO HOLD PROPERTY.

(A) *Investigative hold.* Whenever a law enforcement official from any agency 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 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.

(B) *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.

(C) *Order to confiscate.* If an item is identified as stolen or evidence in a criminal case, the Chief or Chief's designee may:

- (1) Physically confiscate and remove it from the shop, pursuant to a written order from the Chief or the Chief's designee; or
- (2) (a) Place the item on hold or extend the hold as provided in this section, and leave it in the shop.

(b) 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.

(c) When an order to hold/confiscate is no longer necessary, the Chief of Police, or Chief's designee shall so notify the licensee.

(Ord. 679, passed 7-7-09)

§ 124.11 INSPECTION OF ITEMS.

At all times during the term of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, during normal business hours, except in an emergency, for the purpose of inspecting the premises and inspecting the items, wares and merchandise and records therein to verify compliance with this chapter or other applicable laws.

(Ord. 679, passed 7-7-09)

§ 124.12 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 reused.

(Ord. 679, passed 7-7-09)

§ 124.13 PROHIBITED ACTS.

(A) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of 18 years.

(B) No licensee may receive any goods from a person of unsound mind or from an intoxicated person, or a person in an apparent altered state.

(C) No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid state identification card, or current valid photo driver's license or identification card issued by the state or province of residency of the person from whom the item was received.

(D) No licensee 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.

(E) No person may pawn, pledge, sell, consign, leave, or deposit any article of property not the person's own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest; with any licensee.

(F) No person seeking to pawn, pledge, sell, consign, 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 or altered identification, or the identification of another to any licensee.

(G) No licensee may receive or sell the following items: any firearms or deadly weapons. Deadly weapons would include, but not limited to, firearms of any type, knives with a blade length over four inches, num-chucks, throwing stars, or any other device that could be used to seriously injure a body. Additionally, this would include all weapons defined and/or prohibited by Chapter 131 of the City Code.

(H) This chapter strictly prohibits the receiving, possessing, transferring, trading or selling of pornographic material, media, or images of any and all types.

(I) No licensee may operate a check cashing business within a pawn shop.

(Ord. 679, passed 7-7-09) Penalty, see § 10.99

§ 124.14 DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

- Any license under this chapter may be denied, suspended or revoked for one or more of the following reasons:
- (A) The proposed use does not comply with the applicable zoning code;
 - (B) The proposed use does not comply with any health, building, building maintenance or other provisions of the city code or state law;
 - (C) The applicant or licensee has failed to comply with one or more provisions of this chapter;
 - (D) 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;
 - (E) Fraud, misrepresentation or bribery in securing or renewing a license;
 - (F) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business;
 - (G) Violation within the preceding five years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business; and/or
 - (H) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

(Ord. 679, passed 7-7-09)

§ 124.15 MOST RESTRICTIVE PROVISIONS APPLY.

Should any provision of this chapter regulating pawnbrokers or pawn transactions be more or less restrictive than a similar provision in M.S. Ch. 325J or other state law or rule, the more restrictive provision shall apply.

(Ord. 679, passed 7-7-09)

§ 124.16 HOURS OF OPERATION.

No property shall be received as a pledge or purchase by any pawnbroker, nor shall any property be sold by a pawnbroker except during the hours of 10:00 a.m. to 7:00 p.m. Monday through Friday, 10:00 a.m. to 6:00 p.m. Saturday, and 12:00 p.m. to 6:00 p.m. Sunday.

(Ord. 679, passed 7-7-09)

TITLE XIII: GENERAL OFFENSES

Chapter

- 130. GENERAL OFFENSES
- 131. WEAPONS
- 132. SKATEBOARDS AND INLINE SKATES
- 133. FIREWORKS
- 134. REGULATION OF UNATTENDED COLLECTION BINS

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Disorderly conduct
- 130.02 Vagrancy
- 130.03 Destruction of public property
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- 130.20 Drugs, controlled substances
- 130.21 Fleeing a peace officer
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- 130.99 Penalty

§ 130.01 DISORDERLY CONDUCT.

(A) No person shall do any of the following in a public or private place knowing, or having reasonable grounds to know, that it will or will tend to alarm, anger or disturb others or provide an assault or breach of the peace:

- (1) Engage in brawling or fighting;
- (2) Disturb an assembly or meeting, not unlawful in its character;
- (3) Engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others;
- (4) Acts in a manner as to annoy, disturb, interfere with, obstruct or be offensive to another or others;
- (5) Congregates with three or more together or near each other in any public street or on any foot walk or sidewalk in the city so as to obstruct the free passage of foot passengers, and so standing refuses to move on immediately upon request so to do made by any member of the Council or police officers;

(6) Frequents or loiters about any place soliciting any person for the purpose of committing any crime against nature or other lewdness;

(7) Willfully and lewdly exposing a person or other lewdness;

(8) Appears in person or on a public street, alley or other public place in a state of drunkenness or intoxication;

(9) Hides, lies and waits or conceals in any house or building or upon any yard or premises in said city with intent to do mischief or commit any offense prohibited by the laws of this state or the ordinances of this city;

(10) Interferes with, obstructs, renders danger for passage any lake, park, public square, street, alley or highway or any public place in said city;

(11) Interferes with and obstructs the Fire Department while engaging in fighting a fire;

(12) Stands or loiters in or about a doorway of any building or sits upon the steps, window sill or railings of any building in such a manner as to obstruct ingress and egress to and from each building or to the annoyance to the owner or occupant thereof or the public in case of a public building;

(13) Whoever conceals his or her identity in a public place by means of a robe, mask or other disguise, unless incidental to amusement or entertainment.

(B) A person doing any of the foregoing is guilty of disorderly conduct.

(`89 Code, § 171.050) Penalty, see § 130.99

§ 130.02 VAGRANCY.

M.S. § 609.725, as it may be amended from time to time, is adopted by reference.

(`89 Code, § 171.060) Penalty, see § 130.99

§ 130.03 DESTRUCTION OF PUBLIC PROPERTY.

No person shall willfully or maliciously mark, deface, injure, break or destroy in any manner any public property.

(`89 Code, § 171.070) Penalty, see § 130.99

§ 130.04 DESTRUCTION OF PRIVATE PROPERTY.

No person shall willfully or maliciously mark, deface, injure, break or destroy the physical property of another without the latter's consent.

(`89 Code, § 171.080) Penalty, see § 130.99

§ 130.05 UNLAWFUL USE OF UTILITIES.

No person shall:

(A) Willfully use or appropriate any water from the city or make any connections thereto without lawful authority or in any way muddy, pollute or befoul said water or in any way damage, destroy or injure any water main, hydrant, water meter or any connection or part of said water system;

(B) Willfully use or appropriate any electrical energy from the city or make any connections thereto without lawful authority or in any way damage or injure any pole, line or equipment connected to or a part of said system;

(C) Without lawful authority, no person shall tamper with or handle any electric meter for any unlawful purpose;

(D) Willfully use or appropriate any part of the city sewer system or make any connections thereto without lawful authority or in any way damage or injure any manhole, pipe or equipment connected to or forming a part of said sewer system.

(`89 Code, § 171.090) Penalty, see § 130.99

§ 130.06 COOPERATION WITH PUBLIC OFFICER.

(A) *Resisting arrest; obstructing process.*

(1) No person shall wilfully resist, delay or obstruct a public officer in discharging or attempting to discharge a duty of his or her office.

(2) No person shall intentionally obstruct, hinder or prevent the lawful execution of any legal process, civil or criminal.

(B) *Disobeying order of police officer.* No person shall fail or refuse to comply with any lawful order or direction of any police officer within the city.

(C) *False crime reports; false information.* No person shall report or cause to be reported to the Police Department by telephone, in writing or by any other means of communication any felony, gross misdemeanor or misdemeanor knowing that no such felony, gross misdemeanor or misdemeanor has, in fact, been committed, nor shall any person, in reporting a felony, gross misdemeanor or misdemeanor which has actually been committed, knowingly give false information about the same to the Police Department.

(D) *Obstructing Council and city employees.*

(1) *False statements.* Make or submit any false report, petition or statement to the City Council, and city employee or any committee or commission established by the City Council while in the performance of their duties.

(2) *Interference.* Interfere with or obstruct the City Council, and city employee or any committee or commission established by the City Council while in the performance of their duties.

(E) *Fire violations.* No person shall give or make or cause to be given or made an alarm of fire without probable cause, or neglect or refuse to obey a reasonable order of the Chief at a fire or interfere with the Fire Department in the discharge of its duties. No person other than a member of the Fire Department shall leave any vehicle standing within 300 feet of a fire. No person shall drive a vehicle of any kind over a fire hose line on a street whether the same is in service at the time or not.

(`89 Code, § 171.100) Penalty, see § 130.99

§ 130.07 FALSE ALARMS.

No person shall, without due authority from the Chief of the Fire Department, willfully and knowingly give any false alarm of fire in the city or in any way meddle, tamper, interfere with, injure or damage any fire alarm apparatus, push button, alarm bell, wires, line poles or anything connected with or forming part of the fire alarm system of the city.

(`89 Code, § 171.110) Penalty, see § 130.99

§ 130.08 ADVERTISING ON UTILITY POLES.

(A) No person shall fasten in any manner any advertisement, poster, picture or painted sign of any description upon any lamp post or upon any mast or pole in the city used for supporting or conducting any wires or cables.

(B) The owner of any mast or pole standing in any street in the city used for supporting or conducting electric wires or cables shall not permit any person to attach thereto in any manner any advertisement, poster, picture, paper or painted sign of any description.

(C) Nothing in this section shall prohibit the posting of any sign on any post or mast where the same is directed by the city.

(`89 Code, § 171.120) Penalty, see § 130.99

§ 130.09 DUMPING OFFENSIVE SUBSTANCES.

No person shall dump, throw, scatter or deposit at any place within the city any night soil, garbage, manure, ashes mixed with garbage, septic tanks, cesspools, vaults, glass, tin cans, junk or any putrid or offensive substance, except under permit issued by the Council or City Manager, nor shall any person refuse to remove the same from any property within the city. For the purposes of this section, **GARBAGE** means kitchen offal and all other refuse matter composed of either animal or vegetable matter.

(`89 Code, § 171.130) Penalty, see § 130.99

Cross reference:

Garbage, refuse and waste, see Chapter 55

§ 130.10 FALSE REPORTS OF CRIMES.

No person shall give any false information to the police about any crime or misdemeanor that has been committed, nor report to the police any crime or misdemeanor that has not been committed.

(`89 Code, § 171.140) Penalty, see § 130.99

§ 130.11 ISSUANCE OF DISHONORED CHECKS.

The provisions of M.S. § 609.535, Issuance of Dishonored Checks, as it may be amended from time to time, is adopted by reference and made a part of this chapter as completely as if set out here in full.

(`89 Code, § 171.150)

§ 130.12 TRESPASSING.

(A) Whoever intentionally does any of the following acts shall be guilty of a trespass:

(1) Enter upon the premises of another and, without claim of right, refuse to depart therefrom on demand of the lawful possessor thereof, his or her agent or a police officer;

(2) Enter upon the premises of another, without the permission of the owner or occupant, and is in an area not used by the public at that time, unless said entry was accidental or the person is an invitee or licensee;

(3) Enter upon the premises of another without the permission of the owner or occupant when "No Trespassing" signs are displayed on the property or to enter upon those parts of the premises that are signed "Employees Only" or "Authorized Personnel Only" or similar such signs;

(4) Enter the premises of another with intent to take or injure any fruit or fruit trees or vegetables growing thereon without the permission of the owner or occupant;

(5) Enter upon the premises of another, without the permission of the owner or occupant, for the purpose of prowling, window peeping or unauthorized invasion of the rights of the owner or occupant of such property;

(6) Without the permission of the owner or occupant, leave or deposit on the premises of another any trash, rubbish or garbage;

(7) Operate any self-propelled, motorized vehicles:

(a) Upon private property without the written permission of the owner or person entitled to possession thereof; subject, however, to the following:

1. Subsection (a) of this division does not apply to motor vehicles licensed under M.S. Chapter 171, as it may be amended from time to time, when operated upon private driveways, roadways, lanes, ways or parking lots where the operation of licensed motor vehicles is not expressly prohibited by posted notice;

2. No person charged under subsection (a) of this division shall be convicted if he or she produces in court or at the office of

the arresting officer satisfactory written evidence that at the time of the arrest, his or her presence upon the private property was authorized by the owner or person entitled to possession thereof;

(b) Upon any school ground, park property, playground, recreation area or golf course, except as and at such times as the proper authorities may authorize or designate.

(B) **PROPERTY OF ANOTHER** as used in this section means property in which a person other than the actor has an interest which the actor has no right to defeat or impair.

(`89 Code, § 171.160) Penalty, see § 130.99

§ 130.13 HARASSING CONDUCT PROHIBITED.

M.S. §§ 609.746, 609.747 and 609.748 as they may be amended from time to time are adopted by reference.

(`89 Code, § 171.170) Penalty, see § 130.99

§ 130.14 DISORDERLY HOUSE.

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

ALCOHOLIC BEVERAGE. The meaning assigned by M.S. § 340.8.101, Subd. 2, as it may be amended from time to time.

CONTROLLED SUBSTANCES. The meaning assigned by M.S. § 152.01, Subd. 4, as it may be amended from time to time.

DISORDERLY HOUSE. A building, dwelling, establishment, premises or place where prohibited conduct occurs. If the building, dwelling establishment, premises or place is a multi-unit dwelling or residence, hotel or motel or commercial or office building, this definition only includes the dwelling unit, room or suite of rooms in the hotel or motel, office rooms or suite or store in which prohibited conduct occurs.

PROHIBITED CONDUCT. Activities occurring in violation of statutes or ordinances relating to any of the following:

- (a) Gambling;
- (b) Prostitution, acts relating thereto or indecent conduct;
- (c) Sale or possession of controlled substances;
- (d) Unlawful sale, possession or consumption of an alcoholic beverage.

PROSTITUTION. The meaning assigned by M.S. § 609.321, Subd. 9, as it may be amended from time to time.

(B) *Prohibitions.*

(1) No person shall own, operate, manage, maintain or conduct a disorderly house or invite or attempt to invite others to visit or remain in such disorderly house.

(2) No person shall visit or remain in a disorderly house for the purpose of aiding, abetting or engaging in prohibited conduct occurring in such disorderly house.

(3) No person shall visit or remain in a disorderly house knowing or having reason to know that prohibited conduct in violation of this section is then occurring.

(`89 Code, § 171.180) Penalty, see § 130.99

§ 130.15 CURFEW FOR MINORS.

(A) *Purpose.* The curfew for minors established by this section is maintained for four 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 prevail 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, ENTER- TAINMENT 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 16 years.* No minor under the age of 16 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, between the hours of 10:00p.m. and 5:00a.m. the following day, official city time.

(2) *Minors ages 16 years to 18 years.* No minor of the ages of 16 or 17 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, between the hours of 12 midnight and 5:00 a.m. the following day, 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 passing through the city in the course of interstate travel during the hours of curfew.

(6) 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.

(7) 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.

(8) 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 one of the exceptions to this section apply.

(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.

Penalty, see § 130.99

§ 130.16 MINORS IN AMUSEMENT PLACES.

No person, operating or in charge of any place of amusement, entertainment or refreshment, shall permit any minor under the age of 18 years to remain in such place during the hours prohibited by this chapter; provided, however, that the provisions of this section shall not apply when such minor is accompanied by his or her parent, guardian or other adult having the care and custody of the minor.

(`89 Code, § 172.020) Penalty, see § 130.99

§ 130.17 OFFENSES INVOLVING THE PERSON.

(A) *Lurking.* No person shall lurk, lie in wait or conceal himself in any house or other building, or in any yard or premises with the intent to commit any offense prohibited by the laws of the State or by this Code.

(B) *Inhalation of chemicals.* No person shall inhale, drink or otherwise take into their body any compound, liquid or chemical containing tuluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichoroathane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone or any other substance capable of inducing intoxication, elation, dizziness, paralysis, irrational behavior or distortion. The provisions of this section shall not apply to any person who inhales or drinks such material pursuant to the direction or prescription of any physician.

(C) *Issuance of worthless checks.* Minnesota Criminal Code section 609.535, as amended, relating to the issuance of worthless checks, is incorporated by reference in this chapter.

(D) *Wrongful appropriation.* No person shall wilfully take, use, transfer, conceal or retain the possession of goods, wares or merchandise offered or exposed for sale in any store or other business establishment with the intent of converting said property to the taker's own use and without paying the purchase price.

(E) *Theft.* Minnesota Criminal Code section 609.52, as amended, relating to theft, is incorporated by reference in this chapter.

§ 130.18 OFFENSES INVOLVING PROPERTY.

(A) *Destruction or injury to property.* No person shall intentionally damage any real property, personal property, residence, building or motor vehicle of another or throw any stone or other missile at such property.

(B) *Tampering with outdoor warning system.* No person not duly authorized by the City Manager shall use, operate, alter, interfere or tamper with any of the sirens, switch boxes, installations or equipment of the outdoor warning system of the city.

(C) *Damage to political signs.* No person shall damage or remove legal political signs without proper authority.

§ 130.19 OFFENSES INVOLVING PUBLIC HEALTH AND SAFETY.

(A) *Abandoned ice boxes.* No person shall leave in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or any other container of any kind which has an airtight snap lock or other device without first removing the snap lock or doors from the ice box, refrigerator or container.

(B) *Dumping of solid waste.* No person shall dump or deposit solid waste at any place within the city.

(C) *Discharge of cesspools.* No person shall discharge the contents of any privy vault, septic tank, cesspool, sink or private drain or discharge any other offensive waste upon the surface of any platted lot, upon any public or private street, in or upon any surface drain, or in any stream, lake, body of water or drainage structure within the city.

§ 130.20 DRUGS, CONTROL SUBSTANCES.

(A) *Prohibited drugs and marijuana.*

(1) *Possession.* Except as authorized by M.S. § 152.01 *et seq.*, as amended, no person shall possess or have in their possession or control any controlled substance.

(2) *Controlled substances.* Controlled substances are defined as all of the substances listed in M.S. § 152.02, as amended, and also marijuana (cannabis sativa L).

(3) *Automobiles.* A person who is the owner of a private motor vehicle, or the driver of the motor vehicle if the owner is not present, and who possesses on his or her person or keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers, any controlled substance as defined above is guilty of a misdemeanor. This area of the vehicle shall not include the trunk of the motor vehicle when such vehicle is equipped with a trunk or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

(4) *Violations.* Any person violating any of the subsections of this section is guilty of a misdemeanor; further, upon a finding of guilty or a plea of guilty to any violation of this section, the Court may impose sentence pursuant to the provisions of M.S. § 152.18, as it may be amended from time to time, except that such period of probation may be for a period of up to one year.

(B) *Drug paraphernalia.*

(1) *Definitions.*

DRUG PARAPHERNALIA. All equipment, products and materials of any kind which are used, intended for use or designed for use, in planting, propagating, testing, analyzing, pack-aging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of M.S. Chapter 152, as it may be amended from time to time, which includes, but is not limited to:

1. 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.

2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

4. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.

6. Diluents and adulterants such as quinine hydrochloride, mannitol, mannite, dextrose and lactose used, intended for use or designed for use in cutting controlled substances.

7. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.

8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.

9. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.

10. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.

11. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body.

12. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

b. Water pipes.

c. Carburetion tubes and devices.

d. Smoking and carburetion masks.

e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

f. Miniature cocaine spoons and cocaine vials.

g. Chamber pipes.

e. Carburetor pipes.

f. Electric pipes.

g. Air-driven pipes.

h. Chillums.

i. Bongs.

j. Ice pipes or chillers.

13. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all the other logically relevant factors the following:

a. Statements by an owner or by anyone in control of the object concerning its use.

b. Prior convictions, if any, of the owner or of anyone in control of the object of any State or Federal law relating to any controlled substance.

c. The proximity of the object in time and space to the direct violation of this section.

d. The proximity of the object to controlled substances.

e. The existence of any residue of controlled substances on the object.

f. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person in control knows, or should reasonably know, intend to use the object to facilitate a violation of this section; the innocence of an owner or of anyone in control of the object, as a direct violation of this section shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

g. Instructions, oral or written, provided with the object concerning its use.

h. Descriptive materials accompanying the object which explain or depict its use.

i. National and local advertising concerning its use.

j. The manner in which the object is displayed for sale.

k. 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.

l. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

m. The existence and scope of legitimate uses for the object in the community.

n. Expert testimony concerning its use.

(2) *Other terms.* The terms **CONTROLLED SUBSTANCE**, **MANUFACTURING**, **MARIJUANA** and **PERSON** are defined as specified in M.S. § 152.01, as it may be amended from time to time.

(B) *Offenses and penalties.*

(1) *Possession of drug paraphernalia.* It is unlawful for any person to use or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, 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 this section.

(2) *Manufacture or delivery of drug paraphernalia.* It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, 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 this section.

(3) *Advertisement of drug paraphernalia.* 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.

(4) *Penalty.* Any person who violates subsections (1), (2) or (3) of this division is guilty of a misdemeanor.

(C) *Forfeiture.* Upon final conviction for violation of the provisions of this section, all drug paraphernalia seized as evidence shall be turned over to the Chief of Police. Any such evidence which is adaptable to police purposes may be kept and used by the Police Department. Such evidence which is usable or adaptable for use in a lawful manner may be sold by the Chief of Police at a public auction sale following at least two weeks' published notice of such sale. Such evidence which would be dangerous or unlawful to reintroduce into channels of private sale or use may, in the discretion of the Chief of Police, be destroyed.

§ 130.21 FLEEING A PEACE OFFICER.

(A) *Definitions.* For the purpose of this section, the term **PEACE OFFICER** shall be that set forth in M.S. § 609.487, Subd. 2. For purposes of this section, the term **FLEE** means to elude or attempt to elude a peace officer by means other than a motor vehicle following a request to stop given by a peace officer.

(B) *Penalty.* Whoever, by means other than a motor vehicle, flees or attempts to flee a peace officer who is acting in the lawful discharge of an official duty, is guilty of a misdemeanor.

§ 130.22 NOISE 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 persons or precludes their enjoyment of property or affects their property value. This general prohibition is not limited by the specific restrictions of the following subdivisions.

(B) *Noisy assembly.* A noisy assembly under this section means any gathering of more than one person in a residentially zoned area or within, at or upon, the grounds of a private residence which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any persons or precludes their enjoyment of property or affects their property value. Any such gathering 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 a

structure or building in which it is located or in the hallway or apartment adjacent shall be prima facie evidence that the noise is excessive. No person shall knowingly remain at a noisy assembly. No person shall permit property under his/her control to be used for noisy assembly.

(C) *Amplified sound.* No person shall use, operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, tape recorder, paging system, compact disc player, or other device for the production or reproduction of sound in a distinctly and loudly audible manner as unreasonably disturbs the peace, quiet and comfort of any person nearby. Operation of any such radio, instrument, phonograph, compact disc player or other device in such a manner as to be plainly audible at the property line of a 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 a violation of this section.

(D) *Motor vehicles.* When sound violating this section is produced or reproduced from a motor vehicle, the owner of the motor vehicle, if present when the violation occurs, is guilty of the violation. If the owner of the motor vehicle is not present, the person who has dominion, care or control of the motor vehicle at the time of the violation is guilty of the violation. In addition, any person who controls or assists with the production, reproduction or amplification of sound in violation of this section is guilty of the violation.

(E) *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 7:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 5:00 p.m. on Saturdays. No person shall engage in or permit commercial construction activity on Sundays or holidays.

§ 130.99 PENALTY.

(A) *Generally.* Whoever violated any provision of this chapter for which no other penalty has been established shall be punished as provided in § 10.99.

(B) *Curfew penalties.*

(1) *Minors.* Any minor found to be in violation of § 130.15 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. § 260.185, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of § 130.15 shall be guilty of a misdemeanor.

CHAPTER 131: WEAPONS

Section

- 131.01 General
- 131.02 Definitions
- 131.03 Persons prohibited from possessing firearms
- 131.04 Possession of certain items prohibited
- 131.05 Weapons prohibited
- 131.06 Carrying firearms
- 131.07 Carrying concealed weapons; permits
- 131.08 Unlawful discharge
- 131.09 Discharges permitted
- 131.10 Manufacturing, selling, sling shot or sand club
- 131.11 Metal knuckles, switchblades
- 131.12 Silencers

131.13 Transporting

131.14 Effect of provisions on other laws, private rights

§ 131.01 GENERAL.

The sale, purchase, possession and use of weapons, except pistols, within the city shall be subject to the following provisions set forth in this chapter.

(`89 Code, § 171.010(part))

§ 131.02 DEFINITIONS.

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

AMMUNITION. Any projectile, bullet or other mass prepared for insertion in and propulsion from any firearm.

ASSAULT WEAPON. Any weapon other than a firearm or military type weapon having the personal assault characteristics of any sap, numchucks, blackjack, slungshot, slingshot, sand club, chain club, metal knuckles, shurikens or yawara stick.

CONCEALED MANNER. Having the object on the person in such a manner so that it is not completely visible to any other person. Having a knife in a sheath shall be considered as having the knife concealed, irrespective of position of the sheath on the person.

FIREARM. Any weapon, except pistols, from which is propelled any missile, projectile, bullet or other mass through a barrel by means of explosives or gas or air, excluding devices used exclusively for the firing of stud cartridges, explosive rivets or similar industrial apparatus and instruments or equipment when used by licensed physicians or veterinarians in the course and scope of their professions.

KNIFE. Dirk, dagger, stiletto, switchblade knife, spring blade knife, push button knife, a folding knife with a blade in excess of four inches, a machete, a bayonet or any fixed bladed knife carried in a concealed manner or within reach of any person in a motor vehicle.

MILITARY TYPE WEAPON. Any destructive device and the ammunition designed only for such device having firepower, mass, explosive or incendiary characteristics of weapons such as cannons having a bore diameter larger than one-half inch, bazookas, machine guns, fully automatic weapons, mortars, grenades, Molotov cocktails, but not including shotguns, rifles, pistols or revolvers.

NUMCHUCKS. Any device constructed of two solid cylindrical objects joined together on one end by a chain, rope, thong or other such material.

OFFICIALLY RECOGNIZED COMPETITION. All competitions held under the sponsorship of a bona fide target shooting or sportsmen's club or bona fide educational institution.

PISTOL. Any firearm having a barrel of less than 18 inches in length and capable of being concealed on the person.

SECURED CONTAINER. A locked case legibly marked "weapon" having no mechanical features designed for immediate weapons removal or use and containing no other non-related objects; except that a **SECURED CONTAINER** for a rifle or shotgun may mean a weapon case, such as leather, fibre, canvas or plastic secured with a zipper, clasp, buckle or ties.

SHURIKENS. Any metal device which has the shape of a multiple pointed star, each point being sharpened and primarily designed to be thrown.

STUN GUN. Any device that can be or is placed on or in the near vicinity of the body of a person or other living creature; that emits or utilizes electricity in whatever form; and is placed on or in the near vicinity of the body of any person or other living creature and then emits or utilizes electricity for the purpose of intimidating, incapacitating, injuring or otherwise immobilizing said person or creature. **STUN GUN** does not mean a cattle prod that is utilized in bona fide agricultural and animal husbandry activities.

YAWARA STICK. Any cylindrical shaped object which has spheres on both ends and measures less than ten inches in length.

(`89 Code, § 171.010(1))

§ 131.03 PERSONS PROHIBITED FROM POSSESSING FIREARMS.

(A) *Minors; exceptions.* No person who has not attained the age of 18 years shall have any firearm in his or her custody or control or carry the same on his or her person within the limits of the city, except when accompanied by a parent or legal guardian, while participating under adult supervision as a member of a registered target shooting or sportsmen's club, gun training program, gun show, parade or similar event for which a permit has been issued by the Chief of Police, or he or she unless holds a firearms safety certificate recognized by the Commissioner of Natural Resources or is actually enrolled in a program to obtain the same.

(B) *Felons, other.* No person shall have any firearms in possession or control, or carry the same within the limits of the city, who has been convicted of any felony or who is under the influence of drugs or alcohol, unless holding a permit pursuant to M.S. § 624.713, as it may be amended from time to time.

(`89 Code, § 171.010(2)) Penalty, see § 10.99

§ 131.04 POSSESSION OF CERTAIN ITEMS PROHIBITED.

No person shall possess any of the following:

- (A) Fully automatic firearms;
- (B) Shot guns with a barrel less than 18 inches;
- (C) Rifles with a barrel less than 16 inches;
- (D) Weapons made from a rifle or shot gun with an overall length of less than 26 inches;
- (E) Semi-automatic pistols with shoulder stocks;
- (F) Any silencer;
- (G) Any unconventional weapon which is capable of being fired and can be concealed on the person.

(`89 Code, § 171.010(3))

§ 131.05 WEAPONS PROHIBITED.

No person shall keep, carry or have in his or her possession on any public street or being a trespasser upon the premises of another or in a public place in the city any military type weapon, any assault weapon, any stolen weapon or any knife, except military personnel or peace officers engaged in the course of their duties, unless he or she holds a permit to possess the same as collector's items or for use in officially recognized competition.

(`89 Code, § 171.010(4)) Penalty, see § 10.99

§ 131.06 CARRYING FIREARMS.

(A) No person shall carry on his or her person or have in his or her possession or control in any public place any firearm, except as provided in this section and except the following persons:

- (1) Peace officers;
- (2) Military personnel while on duty;
- (3) Persons holding permits to carry a firearm pursuant to this section while carrying on their occupations;
- (4) The Honor Guard or Drill Team of any nationally recognized veterans' organization.

(B) For the purposes of this chapter, ***PUBLIC PLACE*** includes private gatherings in buildings or locations not ordinarily considered public places if, on the occasion of the gathering, ten or more unrelated persons are present, but ***PUBLIC PLACE*** shall not include private residences or premises licensed for the sale of firearms.

(`89 Code, § 171.010(5))

§ 131.07 CARRYING CONCEALED WEAPONS; PERMITS.

(A) No person within the limits of the city shall carry or wear concealed about his or her person any dagger, sling shot or knuckles of lead, brass or other metal, bowie knife, dirk knife, switch-blade knife, razor or any sort or description of firearms or any dangerous or deadly weapons.

(B) Any such weapon adjudged by the duly established courts of the city to have been worn or carried by any person in violation of this section shall be confiscated by the city and handed over to the Police Department and kept, sold or disposed of according to law.

(C) The provisions of this section shall not apply to police officers while on duty, nor to any officer of any court whose duty it may be to serve warrants or make arrests, nor to persons whose business or occupation may require the carrying of weapons for protection and who have obtained a permit to carry a concealed weapon from the Chief of Police.

(D) The Chief of Police may grant to any person, pursuant to M.S. § 624.7131, as it may be amended from time to time, a permit to carry concealed weapons and may revoke any such permit for cause.

(`89 Code, § 171.010(6)) Penalty, see § 10.99

§ 131.08 UNLAWFUL DISCHARGE.

Except as hereinafter provided, no person shall discharge a firearm of any kind, bow and arrow, air gun, BB gun, sling shot or any similar device for the propulsion of shots or metal pellets by means of compressed air, gas or mechanical spring action within the city; except by a sworn peace officer who does so as a part of official duty.

(`89 Code, § 171.010(7)) Penalty, see § 10.99

§ 131.09 DISCHARGES PERMITTED.

The following uses of guns and weapons shall be considered to be exceptions to the provisions contained herein and shall be permitted uses of guns and weapons in the city: Discharge of a gun or firearm or other weapon of any kind for the purpose of self-defense.

(`89 Code, § 171.010(8))

§ 131.10 MANUFACTURING, SELLING, SLING SHOT OR SAND CLUB.

It shall be unlawful for any person to manufacture or sell for any unlawful purpose any weapon known as a sling shot or sand club.

(`89 Code, § 171.010(9)) Penalty, see § 10.99

§ 131.11 METAL KNUCKLES, SWITCHBLADES.

It shall be unlawful for any person to manufacture, transfer or possess metal knuckles or a switchblade knife opening automatically.

(`89 Code, § 171.010(1)) Penalty, see § 10.99

§ 131.12 SILENCERS.

It shall be unlawful for any person to sell or have in possession any device designed to silence or muffle the discharge of a firearm.

(`89 Code, § 171.010(11)) Penalty, see § 10.99

§ 131.13 TRANSPORTING.

Except as permitted by special permit, it shall be unlawful to take any wild animal by means of discharging any firearm or bow and arrow thereat from a motor vehicle or airplane or snowmobile or to transport any firearm in a motor vehicle or airplane or snowmobile or to transport any firearm unless unloaded and contained in the trunk of a car with the trunk door closed, or in the case of a bow and arrow, unless unstrung or contained in a case or unless contained in the trunk of a car with the trunk door closed.

(`89 Code, § 171.010(12)) Penalty, see § 10.99

§ 131.14 EFFECT OF PROVISIONS ON OTHER LAWS, PRIVATE RIGHTS.

Nothing contained in this chapter shall be construed as allowing the discharge of any firearm, air gun or other weapon if such discharge is prohibited by any law of the state or any of its subdivisions nor shall this chapter enlarge the civil rights of any person.

(`89 Code, § 171.010(13))

CHAPTER 132: SKATEBOARDS AND INLINE SKATES

Section

- 132.01 Purpose
- 132.02 Definition
- 132.03 Prohibited acts
- 132.04 Skateboard ramps
- 132.05 Fees
- 132.06 Waiver
- 132.07 Right-of-way
- 132.08 Hours of operation
- 132.09 Violations

§ 132.01 PURPOSE.

The purpose of this chapter is to protect the public health and safety, to regulate the use upon public streets and sidewalks and to prohibit the use in certain parts of the city.

(`89 Code, § 174.010)

§ 132.02 DEFINITION.

INLINE SKATES. A shoe with wheels attached or a device with wheels which is designed to be attached to a shoe. (This includes roller blades and roller skates.)

ROLLER SKIS. A pair of skis platformed with wheels attached which is intended to simulate skiing.

SKATEBOARD. A device for riding upon, usually while standing, consisting of a piece of wood or other composition mounted on skate wheels.

(`89 Code, § 174.020)

§ 132.03 PROHIBITED ACTS.

It shall be unlawful for any person to ride or propel oneself upon a skateboard in any of the following circumstances.

(A) *General rule.* On a street, alley, sidewalk or parking area within the Downtown Business District defined as follows: Highway 36 on the north, McKnight Road on the west, Seventh Avenue from McKnight to First Street and the alley south of Seventh Avenue from First Street to Highway 120 on the south and Highway #120 on the east.

(B) *Streets.* Upon the shoulder or main-traveled portion of a state or county road within the city.

(C) *Traffic.* In a place where the surface or traffic conditions render the place unsafe for skateboarding.

(D) *Private property.* On private property without the prior express permission of the owner of the property.

(E) *Designated public areas.* In public parks or areas therein which are signed "No Skateboards."

(F) *While being pushed, pulled or propelled.* In any area of the city while being pushed, pulled or in anyway propelled by any motorized vehicle or by a person on a bicycle.

(G) *Tennis court.* On any public tennis court.

(`89 Code, § 174.030) Penalty, see § 10.99

§ 132.04 SKATEBOARD RAMPS.

(A) Skateboard ramps higher than 30 inches require a building permit pursuant to the Minnesota State Building Code and a special use permit from the City Council.

(B) Before a building permit and a conditional use permit shall be granted, the following conditions must be determined by the City Council and included in the permits:

- (1) The ramp must be located on the property of the builder and must be at least six feet from any property line;
- (2) The ramp must be constructed to adequately handle the use proposed;
- (3) The consent of all adjacent neighbors in writing must be submitted to the city along with the application for the permits;
- (4) Applicants for the permits must, in writing, detail how they will keep noise to a minimum;
- (5) Hours of operation;
- (6) Maximum number of people who would use the ramp at any one time;
- (7) The length of time the ramp will remain on the property.

(C) No building or conditional use permit shall be granted without a public hearing and notice to all persons within 300 feet of the property where the ramp is located.

(`89 Code, § 174.040)

§ 132.05 FEES.

Fees shall be set by Council ordinance.

(`89 Code, § 174.050)

§ 132.06 WAIVER.

The City Manager is authorized to waive any provision of this chapter, except § 132.05, if he or she makes a finding that such a waiver would be in the best interest of the city.

§ 132.07 RIGHT-OF-WAY.

The operator of inline skates, roller blades, roller skates, roller skis or a skateboard emerging from any alley, driveway, or building, upon approaching a sidewalk or the sidewalk area extending across any alleyway, shall yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area and upon entering the street shall yield the right- of-way to all vehicles approaching on the street.

§ 132.08 HOURS OF OPERATION.

It is unlawful for any person to use inline skates, roller blades, roller skates, roller skis or a skateboard upon a public street, sidewalk, or other roadway from 10:00 p.m. to 6:00 a.m., except on private property with express permission of owner, and except if the roller blades, roller skates, roller skis, skateboard or operator are equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of head lamps on a motor vehicle. The reflective material shall be a minimum of 40 square inches. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.

§ 132.09 VIOLATIONS.

A person apprehended by a peace officer in violation of the provisions of this chapter does, by his or her use of the public sidewalks, streets, and public parking lots, consent to the impoundment by a police officer of the inline skates, roller blades, roller skates, roller skis or skateboard for a period of three days upon a first offense, a week upon the second offense and 30 days upon a third or additional offense. Any operator aggrieved by the impoundment of his or her inline skates, roller blades, roller skates, roller skis or skateboard may petition the Council for a hearing thereon at the next regular Council meeting following the impoundment. This provision is in addition to the provisions for fines and penalties as set forth in § 10.99.

CHAPTER 133: FIREWORKS

Section

- 133.01 Governing regulations
- 133.02 Acts prohibited without permit
- 133.03 Permit application
- 133.04 Terms and conditions for issuance of permit
- 133.05 Discharge rules and regulations

- 133.99 Penalty

§ 133.01 GOVERNING REGULATIONS.

Fireworks are regulated by M.S. §§ 624.20 to 624.25, as they may be amended from time to time. In addition to these regulations all display, sales, storage for commercial purposes, manufacturing, and use of consumer fireworks shall comply with this chapter.

(Ord. 637, passed 6-4-2003)

§ 133.02 ACTS PROHIBITED WITHOUT PERMIT.

No person, without securing a permit, shall do any of the following:

(A) Manufacture, store or sell any fireworks;

(B) Make a public display of fireworks.

(Ord. 637, passed 6-4-2003)

§ 133.03 PERMIT APPLICATION.

(A) The application for the permit for the manufacturing, storage for commercial purposes, and sale of fireworks shall be made to the Fire Chief a minimum of ten days prior to operating.

(B) Permits shall be issued for a period of one calendar year.

(C) Prior to processing the application a criminal records check must be conducted. Neither the applicant nor the responsible party for the permit shall have been convicted of a felony or a fire/fireworks- related misdemeanor within the last three years.

(D) Prior to processing the application, the Fire Chief shall determine that the proposed location complies with State Fire Code and this chapter.

(E) The application shall include: a letter from the person legally responsible for the property on which the fireworks related activity will occur. Such letter shall grant permission to the applicant for the use of the property.

(F) The application shall include: a floor plan designating the area for manufacturing, storage for commercial purposes or display, along with a list documenting the name, weight, and quantity of the fireworks within the building and the material safety data sheets.

(G) Any permit granted hereunder shall be nontransferable.

(H) Permit fee. The fee shall be the fee maximum allowable by State Law.

(Ord. 637, passed 6-4-2003)

§ 133.04 TERMS AND CONDITIONS FOR ISSUANCE OF PERMIT.

A permit for manufacturing, storage for commercial purposes, or retail sale of common fireworks shall be issued only upon the following terms and conditions:

(A) Manufacturing, storage for commercial purposes, or retail sale may only occur in the appropriate industrial or commercial zoning districts and must comply with all applicable city ordinances. No exterior storage, display, sales or transient sales of fireworks are permitted. No manufacturing, sales or storage for commercial purposes shall occur on residentially zone property or properties used for educational purposes or assemblies. Transient sales are prohibited except in B2 and B3 Zoning Districts.

(B) Smoking shall not be permitted in any building or tenant space where fireworks are manufactured, stored for commercial purposes or sold. Areas where fireworks are manufactured, stored for commercial purposes or sold shall be provided with approved "no smoking" signs in red letters not less than two inches in height on white background. All signs shall be maintained in legible condition.

(C) Fireworks may not be discharged from any building or site from which they are manufactured, stored for commercial purposes or sold.

(D) Each permit holder shall have not less than two water-type or equivalent extinguishers of not less than two and one-half gallon capacity in approved locations.

(E) There shall be at least two code compliant exits from all buildings from which fireworks are manufactured, stored for commercial purposes or sold.

(F) In buildings without an approved automatic sprinkler system retail consumer fireworks indoor sales displays shall be limited to 500 pounds gross weight.

(G) Buildings protected throughout by an approved automatic sprinkler system shall be limited to 1,000 pounds gross weight.

(H) Fireworks permits shall be posted in a conspicuous location near the main entrance.

(I) A list of all consumer fireworks displayed and stored on the property shall be available at all times. The list shall document the name, weight, and quantity of the fireworks and be accompanied by the material safety data sheets.

(J) Upon request samples of the fireworks shall be made available to the Fire Chief for testing or firefighter training.

(K) Manufacturing, warehouse buildings, or display in excess of the quantities listed in divisions (H) and (I) for retail consumer fireworks shall be classified as an H occupancy and protected similar to explosives and aerosols.

(L) A handout describing fireworks safety and the city ignition device ordinance shall be provided to each consumer purchasing fireworks.

(Ord. 637, passed 6-4-2003)

§ 133.05 DISCHARGE RULES AND REGULATIONS.

(A) It is unlawful to use, fire, or discharge any fireworks along the route of and during any parade or at any place of public assembly or in any commercial/industrial district.

(B) It is unlawful at any time to throw or toss any fireworks at any person, animal, vehicle or other thing or object or used in any manner that may threaten or cause possible harm to life or property.

(C) The discharge of fireworks shall be prohibited within 25 feet of any building.

(D) Fireworks may only be discharged in an area with a water source connected to a hose or where there is another approved means of extinguishing a fire.

(E) The Fire Chief may ban fireworks if dry or windy conditions occur.

(F) Juveniles may not possess fireworks unless under the direct supervision of a responsible adult.

(G) Fireworks may not be discharged in such a manner that may create a nuisance nor between the hours of 11:00 p.m. to 9:00 a.m.

(Ord. 637, passed 6-4-2003)

§ 133.99 PENALTY.

(A) Materials which violate and/or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal shall be assessed back to the property.

(B) Violations of this city ordinance, or state statute may result in revocation of the permit.

(C) Violations of this city ordinance, is a misdemeanor offense, punishable by fines up to \$1,000 and/or 90 days in jail.

(Ord. 637, passed 6-4-2003)

CHAPTER 134: REGULATION OF UNATTENDED COLLECTION BINS

Section

134.01 Definitions

134.02 Permits

134.03 Renewal of permits

134.04 Requirements and maintenance

- 134.05 Revocation of permit, removal of unattended collection bins and liability
- 134.06 Violation; penalty
- 134.07 Appeals to City Council
- 134.08 Violations, enforcement, actions and remedies
- 134.09 Existing conditions
- 134.10 No mandatory duty of care

§ 134.01 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

CITY MANAGER. The City Manager of the City of North St. Paul or designee.

INCIDENTAL USE. A subordinate use limited to 120 square feet.

OPERATOR. A person who utilizes or maintains unattended collection bin/box(es) to solicit donations of salvageable personal property.

PERMITTEE. The property owner who is issued a permit authorizing placement of unattended collection bin(s).

PROPERTY OWNER. The person who owns the real property where the unattended collection bin(s) are or are proposed to be located.

UNATTENDED COLLECTION BINS. Any unattended container, receptacle, or similar device that is located on any lot within the city and that is used for soliciting and collecting donations of clothing or other salvageable personal property. This term does not include trash or recycle bins for the collection of waste material governed or regulated by this Code.

(Ord. 702, passed 12-21-2010)

§ 134.02 PERMITS.

(A) It is unlawful and a public nuisance for any property owner or other person to place, operate, maintain or allow unattended collection bins on real property unless:

- (1) The person placing the box on first obtains a permit pursuant to this chapter; and
- (2) The collection box is placed, operated and maintained in accordance with all provisions in this chapter.

(B) The permit application shall be made on a form provided by the city and shall include the following information:

- (1) The name, address, email, website (if available) and telephone number of the applicant.
- (2) The text of the disclosures that will be made on the unattended donation box as to a non-profit or a for-profit organization.
- (3) The physical address of the property owner's real property and a drawing sufficient to indicate the proposed location of the unattended donation box on the property owner's real property and the size of the proposed unattended donation box.
- (4) The written consent of the property owner on which the box will be placed is expressly given by the permittee.

(C) Each application shall be accompanied by a non-refundable fee in the amount established by the City Council. This fee shall be in addition to any fee or tax imposed by the city pursuant to any other provision of this Code.

(D) Applications shall be filed with the City Manager.

(E) Within 60 days of receiving a completed application, the City Manager or designee shall issue a permit or deny the issuance of a permit.

(F) The City Manager shall not issue a permit unless:

(1) The applicant has submitted a complete and accurate application accompanied by the applicable fee; and

(2) The proposed location of the unattended donation box on the property owner's real property is in compliance with all applicable laws.

(G) If the City Manager denies an application, the City Manager shall state, in writing, the specific reasons for denial.

(H) The term of the permit shall expire one year from the date of issuance.

(I) No person to whom a permit has been issued shall transfer, assign, or convey such permit to another person.

(J) Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the City Manager in writing. The permit shall become void upon the City Manager's receipt of a written notice.

(Ord. 702, passed 12-21-2010)

§ 134.03 RENEWAL OF PERMITS.

(A) A permittee may apply for permit renewal by submitting to the City Manager before the expiration of the permit, a renewal application and a non-refundable fee in an amount set by the City Council.

(B) The City Manager shall either approve or deny the renewal of a permit within 60 days of receipt of the complete renewal application and payment of the renewal fee. The failure of the City Manager to timely act shall constitute approval of the renewal of the permit.

(C) The City Manager shall approve the renewal of a permit if he or she finds that no circumstances existed during the term of the permit, existed at the time of submission of an application for renewal, or existed at any time during the review of the application for renewal that are inconsistent with any finding required for approval of a new permit as specified or that would justify the revocation of the permit.

(Ord. 702, passed 12-21-2010)

§ 134.04 REQUIREMENTS AND MAINTENANCE.

(A) A permittee shall locate all unattended collection bins as follows:

(1) An unattended collection bin may not be placed within the required front yard setback.

(2) An unattended collection bin may not be placed within 20 feet of the side property line.

(3) An unattended collection bin may not be placed on a vacant lot.

(B) A permittee shall operate and maintain or cause to be operated and maintained all unattended collection bins located in the city as follows:

(1) Unattended collection bins shall be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti;

(2) Unattended collection bins shall be locked or otherwise secured;

(3) Unattended collection bins shall contain the following contact information visible from the front of each unattended collection bin: the name, address, email, and phone number of both the permittee and operator;

(4) Unattended collection bins shall be serviced and emptied as needed, but at least every 30 days.

(C) The permittee shall maintain or cause to be maintained the area surrounding the unattended collection bin(s) free of any junk, debris or other material and shall be responsible to the extent provided by law for the cost to abate any violation.

(D) Notwithstanding any other provision of this Code, it is unlawful for any person to place an unattended collection bin in any residential district except on educational or religious organizational property.

(E) Notwithstanding any other provision of this Code, it is unlawful to locate any unattended collection bin less than 400 feet from any other unattended collection bin.

(F) Notwithstanding any other provision of this Code, it is unlawful to locate more than one unattended collection bin on each parcel of real property.

(G) Notwithstanding any other provision of this Code, it is unlawful to locate any unattended collection bin on required parking spaces.

(Ord. 702, passed 12-21-2010) Penalty, see § 10.99

§ 134.05 REVOCATION OF PERMIT, REMOVAL OF UNATTENDED COLLECTION BINS AND LIABILITY.

The City Manager shall have the right for cause to revoke any permit issued hereunder. Any of the grounds upon which he or she may refuse to issue an initial permit shall also constitute grounds for such revocation. In addition, the failure of the permittee to comply with the provisions of this chapter or other provisions of this Code or other law shall also constitute grounds for revocation of the permit. The City Manager shall provide a written notification to the permittee stating the specific grounds for revocation. Upon revocation, the unattended donation box shall be removed from the permittee's real property within 30 days and if not removed within this time period, the city may remove, store and dispose of the unattended collection bin at the expense of the permittee. Upon revocation, a permittee shall be prohibited from applying for a permit for a period of one year. Any violation of the provisions of this chapter is a public nuisance subject to abatement.

(Ord. 702, passed 12-21-2010)

§ 134.06 VIOLATION; PENALTY.

Any person violating any provision of this chapter is guilty of a misdemeanor.

(Ord. 702, passed 12-21-2010) Penalty, see § 10.99

§ 134.07 APPEALS TO CITY COUNCIL.

Any person aggrieved by the decision rendered by the City Manager in granting or denying an application for a permit under this chapter or in revoking a permit issued under this chapter may appeal the decision to the City Council. The appeal shall be made by filing a written notice thereof with the City Clerk not later than ten days after receiving notice of the decision of the City Manager. The City Council shall hold a hearing on the appeal and its decision thereon shall be final.

(Ord. 702, passed 12-21-2010)

§ 134.08 VIOLATIONS. ENFORCEMENT, ACTIONS AND REMEDIES.

Each failure to comply with any provision of this chapter or any regulation promulgated under this chapter is unlawful and constitutes a public nuisance.

(Ord. 702, passed 12-21-2010) Penalty, see § 10.99

§ 134.09 EXISTING CONDITIONS.

The provisions of this chapter shall apply to all unattended collection bins located within the city as of the effective date of this chapter. All persons who have one or more unattended collection bins located on their real property as of the effective date of this chapter shall have 60 days from that date to file an application for a permit as provided for in this chapter. Any such person who has filed a timely application for a permit shall not be subject to the provisions of this chapter relating to unattended collection bins until a permit is issued or denied to the applicant.

(Ord. 702, passed 12-21-2010)

§ 134.10 NO MANDATORY DUTY OF CARE.

This chapter is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care towards persons and property within or without the city, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

(Ord. 702, passed 12-21-2010)

TITLE XV: LAND USAGE

Chapter

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- 151. DANGEROUS BUILDINGS
- 152. STRUCTURES AND PREMISES MAINTENANCE AND OCCUPANCY CODE
- 153. LAND DEVELOPMENT
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CHAPTER 150: BUILDING REGULATIONS

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GENERAL PROVISIONS

§ 150.001 STATE BUILDING CODE ADOPTED.

The Minnesota State Building Code, as adopted by the State pursuant to M.S. Chapter 326B, including all of the amendments, rules and regulations established, adopted and published as it may be amended from time to time, one copy of which has been marked as the official copy and which is on file in the office of the City Manager, is hereby adopted as the Building Code for the city. Every provision contained in the Minnesota State Building Code, with the exception of the optional chapters, unless specifically adopted in this ordinance, is hereby adopted and made a part of this chapter as if fully set forth herein. 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:

- (A) Chapter 1306, Special Fire Protection Systems, Subpart 3, new construction only.

('89 Code, § 20.010) (Ord. 664, passed 10-2-2007; Am. Ord. 681, passed 6-9-09)

§ 150.002 RESERVED.

§ 150.003 BUILDING INSPECTOR.

(A) The Manager shall appoint and supervise the Building Inspector. The Building Inspector, to qualify for appointment, shall have a thorough understanding of the State Building Code and the ordinances of the city, which he or she is charged with enforcing, and he or she shall have at least five year's experience in one or more of the following fields of endeavor:

- (1) Building Inspector;
- (2) Architect;
- (3) Structural engineer; or
- (4) Construction Superintendent.

(B) During tenure of office, the Building Inspector shall not be engaged or employed in any business that falls under the regulatory control of the office. As remuneration for services, the Building Inspector shall be paid as provided for by Council resolution.

- (C) The Building Inspector may be removed at the pleasure of the Manager.

('89 Code, § 20.030)

§ 150.004 DEPUTIES.

(A) The Manager may appoint as many Deputy Building Inspectors as deemed necessary. To qualify as a Deputy Building Inspector, the appointee shall have the same qualifications as those established for the Building Inspector; however, the Manager may waive such of the qualifications as may be to the public's interest.

- (B) The Deputies may be removed at the pleasure of the Manager.

('89 Code, § 20.040)

§ 150.005 MOVING OF EXISTING BUILDINGS.

(A) Any person, firm, association or corporation desiring to move any existing building or structure to within or to outside the city shall comply with the following:

- (1) Apply for a moving permit from the Building Official prior to said building or structure being moved;
- (2) Satisfy all requirements of division (B) of this section;

(3) Each application shall be accompanied with a detailed construction plan showing how the building or structure, along with the property to where the building or structure is to be located, is to be remodeled; said plan shall show all the work to be done as well as the costs for such work; the Building Officials shall use this plan when inspecting the building or structure and shall make sure that said plan is complete, and if not complete shall add to said plan each and every item necessary, as well as cost, to make the moved building or structure a finished product and that it conforms with the Building Code;

(4) Every permittee shall remove all rubbish and materials and fill all excavations to existing grade at the original building site, when located in the city, so that the premises are left in a safe and sanitary condition. The performance bond required in subsection (8) below shall also include clearing to old premises, with the exception that the work to be done in this case must be done within 30 days;

(5) In addition to all other work, each plan shall show the following:

(a) *Painting*. Paint or cause to be painted all exterior walls, doors and door frames, windows and frames as well as screen and storm windows or the building or structure moved, unless waived by Building Official.

(b) *Roofing*. Install or cause to be installed new roofing upon such building whenever in the opinion of the Building Officials the existing roofing is unsightly, dilapidated or leaking.

(c) *Gutters*. Construct, install or cause to be installed adequate roof gutters and downspouts upon any such building.

(d) *Grading and sodding*. Install or cause to be installed a finished grade on all parts of the premises on which such building or structure is moved, including the planting or installation of live sodding on all parts of the plot or parcel involved.

(e) *Landscaping*. Install or cause to be installed proper landscaping upon the premises on which such building or structure is to be moved, said landscaping to conform to surrounding neighborhood.

(f) *Drainage*. Shall construct and provide all necessary and proper drainage for the premises onto which such building or structure is moved, such drainage to be installed and constructed according to the plan to be submitted by the owner and approved by the engineer.

(6) The Building Official shall refuse to issue a permit if it is found:

- (a) That any application requirement or any fee or deposit requirement has not been complied with;
- (b) That the building is too large to move without endangering persons or property in the city;
- (c) That the building is in such state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the city;
- (d) That the building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the city;
- (e) That the building to be moved is not worth at least 60% of the cost of a similar new building as determined by the Building Officials.

(7) No permit shall be issued under the provisions hereof unless and until the Building Officials shall be satisfied that the building proposed to be removed will in its removal location conform to the general character and to the type of architecture of the neighborhood;

(8) A performance bond or a certified check shall be required in the sum of one and one-half times the total cost as stated in the plans stated in subsection (3) above and subsection (4) above. The bond shall be conditioned on the work stated in the plan, required in subsection (3) above, being completed within 90 days from the date of issuance of said permit. Failure to complete any part of the plans shall be reviewed by the Council and may be considered a forfeiture of the bond, or a portion thereof;

(9) All provisions of the State Building Code, as described in § 150.001, shall apply to any building or structure being moved under this section, and the term Building Officials as used only in this section shall include the Building Inspector, Plumbing Inspector,

Heating Inspector, Electrical Inspector and the Plastering Inspector.

(B) The fees and insurance requirements for the moving of existing structures shall be as follows:

(1) An application for moving a building shall be accompanied by a pre-moving inspection deposit to be established by Council ordinance. The Building Officials shall review the application and shall make an inspection of the existing building prior to moving. For this service they shall be reimbursed on an hourly rate plus mileage. This charge shall be deducted from the deposit, and any additional charges shall be collectible from the applicant. In case the charge is less than the deposit, the remainder will be returned to the applicant;

(2) A further deposit shall be made by the applicant with the city as insurance to guarantee the replacement of any street surfacing, cost of removing and replacing city owned utility wires and any other expenses incurred by the city, also to be established by Council ordinance. The city will submit a bill for any and all costs chargeable to the applicant or his or her agent. The charges shall be deducted from the deposit made, and any additional charges shall be collectible from the applicant;

(3) A building permit fee shall be paid prior to moving of the building.

(`89 Code, § 20.060)

§ 150.006 MINIMUM SIZES.

(A) Every dwelling house hereafter erected shall:

- (1) Contain at least three rooms conforming to the standards set forth in Section 1405(b);
- (2) Have rooms which do not measure less than seven feet in any dimension when they are used;
- (3) Shall not measure less than 24 feet on any one side; and
- (4) Shall have a continuous foundation.

(B) Each single-family house shall have a minimum finished livable floor area of 1,100 square feet for a one-story structure, 1,200 square feet for a 1½ story structure, and 1,400 square feet for a two- story or more structure.

(C) For the purpose of computing the minimum areas set down in division (B) of this section, only those areas having a ceiling height of seven and one- half feet or more will be considered. The area of "split level" or "split entry" houses shall be computed on the basis of the largest horizontal area of the structure; and when one habitable area lies directly above another habitable area, only the larger of these areas may be used to compute areas as prescribed in this section.

(D) Domed homes shall be considered one story houses, if there is no second floor; one and one-half story houses, if all or part of the second floor is provided. In calculating the minimum square footage for the second floor, it must be determined first if that floor has over 50% of its area with a ceiling height of a minimum of seven feet six inches, and if it does, then any part of that floor with a ceiling height of five feet, or more, shall be included for determining the minimum square footage, as set down in division (B) of this section. Entryways will not be considered in calculating the necessary square footage of the living area. If an extension is added to the domed home, the total square footage of the extension, for the calculation of living area purposes only, shall not exceed 5% of the total habitable area of the home.

(E) Earth sheltered homes shall be as defined by state law. If an earth sheltered home has one level, it shall be considered a one story house. If an earth sheltered home has two levels, it shall be considered a two story house.

(`89 Code, § 20.070) (Ord. 634, passed 7-16-2002)

§ 150.007 DRIVEWAYS.

Refer to § 154.010 of the zoning regulations. (`89 Code, § 20.080)

(`89 Code, § 20.080)

§ 150.008 FENCES.

Fences, when constructed to enclosed or screen any lot or tract of land, or part thereof, shall be erected in such a manner as to resist the forces of wind and frost action in accordance with the provisions of the State Building Code. Posts, footings and structural framework of all fences shall be so constructed and maintained as not to create any hazards to life or limb. Fences shall not be equipped with barbs or spikes. See also section on fences in Zoning Chapter 154.

(`89 Code, § 20.090)

§ 150.009 WATERPROOFING AND DAMP- PROOFING.

All basements and habitable spaces below grade level shall be damp proofed or waterproofed as hereinafter prescribed, so as to adequately protect against the infiltration of dampness, moisture or water.

(A) *Foundation drains.* In those areas where the average sub-surface water table is less than three feet below the basement floor, or where the nature of the soil presents a sub-surface drainage problem, foundation drain tile shall be installed. All such installations shall be approved by the Building Inspector prior to such installation.

(B) *Waterproofing.* In those areas where the average sub-surface water table is not more than six inches below the basement floor, a membrane shall be installed so as to prohibit the passage of moisture or dampness into the basement or habitable area. All installations proposed under this division shall be approved by the Building Inspector prior to such installation.

(C) *Damp-proofing.* In those areas where the average sub-surface water table lies more than three feet below the basement floor, only damp-proofing shall be required. Such damp proofing shall consist of one of the following:

(1) One coat of Portland cement parging, 3/8 inch thick, troweled onto masonry walls from top of footings to the finish grade line;

(2) One or more coats of bituminous materials, sprayed, brushed or troweled onto masonry walls, in accordance with the recommendations of the manufacturer thereof, from the footings to the finish grade line. Provided, however, the foundation damp proofing required by this division may be omitted, with the approval of the Building Inspector, in areas where well-drained soils exist and where the average sub-surface water lies more than eight feet below the basement floor.

(`89 Code, § 20.100)

§ 150.010 DRAINAGE.

Any building construction, or building alteration, which does not allow for adequate drainage from any grade entrance shall not be allowed. A 12 inch grade drop from any grade entrance may be considered adequate drainage.

(`89 Code, § 20.110)

§ 150.011 PLOT PLAN INFORMATION.

(A) Before any building permit shall be issued, the owner or agent shall file with the city for Council approval a detailed plot plan, drawn to appropriate scale, showing the location of all proposed structures, driveways, landscaping, parking, screening, sidewalks, access drives, land uses, structural uses, including the following:

(1) A location map relating site plan to the geographical location in the city;

(2) Identification of the use of each structure;

(3) The dimensions of all structures, including height of all buildings;

(4) Provisions of off-street parking, vehicle storage, internal and external circulation;

(5) Extent and type of landscaping to be identified by botanical or common name and size of such at time of planting;

(6) Type and placement of advertising or directional signs other than street name signs;

(7) Type, placement and number of street name signs, traffic safety signs and other circulation signs;

(8) Type and location of firefighting facilities;

- (9) Nature and extent of cut, fill and grade of soil, compaction, along with other related engineering data;
- (10) Plans and specifications for the improvement of streets, highways, pedestrian ways, alleys and similar features;
- (11) Plans for drainage, including culverts, bridges and pertinent structures;
- (12) Plans for all utilities;
- (13) Plans for all lighting, including lighting of signs;
- (14) Type and location of fences or other screening used throughout the plot plan.

(B) This section shall not apply to single or two family residences constructed in the areas covered by this Code.

('89 Code, § 20.120)

§ 150.012 BUILDING PERMITS NOT TO BE ISSUED.

(A) No building permits shall be authorized or issued by the Building Inspector or assistants in the following cases:

- (1) Where the street in front of the property is not completed and formally accepted as such by the Council;
- (2) On property not fronting on a completed public street;
- (3) Where no part of the building to be constructed is within 50 feet of the public street the property fronts on;
- (4) The building and land does not conform with the zoning law requirements of the city.

(B) For the purpose of this section, the frontage width of the property on a public street shall be considered the lot width for the lot and land requirements of the zoning law of this Code.

(C) The Council may grant special use permits to allow construction of buildings that do not comply with this section, the procedure for which shall conform with the requirements of this Code.

(D) This section, or any part thereof, may be waived by the Council for reasonable cause and where a conditional use permit would not benefit the city.

('89 Code, § 20.130)

§ 150.013 NON-CONVENTIONAL BUILDINGS.

All non-conventional buildings, including domes, earth sheltered or otherwise, shall not be issued a building permit, if otherwise authorized by law, unless the person applying for the permit shall also file an engineering analysis of the structural soundness, signed by a registered professional engineer or architect and which affords the city sufficient information to properly evaluate the building's structural soundness.

('89 Code, § 20.140)

HEATING INSPECTORS AND PERMITS

§ 150.025 DEFINITIONS.

For the purpose of this chapter, excepting §§ 150.100*et seq.*, and Chapters 151 and 152, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPROVED. As applied to material, device or method of construction or installation, means approved by the City Council or by other authority designated by law to give approval in the matter in question.

A.S.A. The American Standards Association.

ATMOSPHERIC BURNER. A device (other than gas range or gas water heater) in which air at atmospheric pressure is injected into the burner by a jet of gas under pressure and whose input exceeds 50,000 B.T.U. per hour.

AUTOMATIC FIRE DOOR. A fire door normally held in an open position and automatically closed by a releasing device that is actuated by abnormal high temperature or by a predetermined rate of rise in temperature.

CONVERSION BURNER. A gas burning appliance designed to supply gaseous fuel to and properly burn same in the combustion chamber of a boiler, furnace or other device originally designed to burn another fuel.

FIRE DOOR. A door and its assembly so constructed and assembled in place as to give the specified protection against the passage of fire.

FIRE PARTITION. A partition which subdivides a building to resist the spread of fire or to provide areas of refuge, but is not necessarily continuous through all stories nor extended through the room and has a fire-resistant rating of at least two hours.

FIRE RESISTANT RATING. The time in hours that the material or construction will withstand fire exposure as determined by a fire test made in conformity with the "Standard Methods of Fire Tests of Building Construction and Materials," A.S.T.M. E. 119-50.

GAS BURNER. A device for the final conveyance of gas or a mixture of gas and air to the combustion zone of a steam or hot water boiler, furnace or to any device or appliance used in connection with a space heating system, including conversion burners, gas designed heating appliances, power gas burners and atmospheric gas burners.

GAS BURNER EQUIPMENT. Includes gas burners as herein defined, together with all fans, blowers, control devices and accessories connected to the burners and piping involved in supplying the burner.

GAS DESIGNATED HEATING APPLIANCE. Any space heating appliance designed for the exclusive use of gaseous fuels, excepting certain auxiliary heaters.

GAS FITTING. The work or putting together any fittings, pipes or fixtures or other appliances which are to contain gas for heat, light or power purposes.

HABITABLE ROOM. A room occupied by one or more persons for living, eating or sleeping, but not including bathrooms, water closet compartments, laundries, serving and storage pantries, corridors, cellars and spaces that are not used frequently or during extended periods.

OCCUPIED. As applied to a building, **OCCUPIED** shall be construed as though followed by the words "or intended arranged or designed to be occupied."

POWER GAS BURNER. A device in which either the gas or air or both are supplied at pressures exceeding, for gas, the house line pressure and for air, atmospheric pressure.

REPAIR. The replacement of existing work with the same kind of material used in the existing work, not including additional work that would affect the structural safety of the building or that would affect or change required exit, lighting or ventilating facilities, that would affect a vital element of an elevator, plumbing, gas piping, wiring or heating installation or that would be a violation of a provision of this chapter, excepting §§ 150.085 *et seq.*, and Chapters 151 and 152.

(`89 Code, § 22.010)

§ 150.026 HEATING INSPECTION.

(A) The Manager may appoint a Heating Inspector and such Deputy Heating Inspectors as may be required to carry out the terms of this chapter, excepting §§ 150.100 *et seq.*, and Chapters 151 and 152. The Heating Inspector and Deputies appointed must demonstrate a general knowledge of all types of heating apparatus, equipment and installation, including air conditioning units. They shall be particularly qualified to inspect and pass upon the installation of gas burner equipment.

(B) The Heating Inspector and Deputies shall not engage in the business of installation or maintenance of heating or air conditioning equipment, either directly or indirectly in the city, and they shall have no financial interest in any concern engaged in such business in the city.

(`89 Code, § 22.020)

§ 150.027 POWERS AND DUTIES.

The Heating Inspector and Deputies are authorized to:

- (A) Enforce the provisions of this chapter, excepting §§ 150.100*et seq.*, and Chapters 151 and 152, inspecting all work relative to or incidental with heating and air conditioning equipment of any kind;
- (B) Be empowered to enter any building during reasonable hours in the discharge of duties or for the purpose of making any inspection which might be necessary in the performance of duties;
- (C) Pass upon all questions relating to strength, durability, appearance and general workmanship;
- (D) Make such tests or order such tests to be made as are deemed necessary to determine the safety of materials, equipment or appliances which it becomes their duty to inspect;
- (E) Recommend the employment by the city of such technical or expert consultants as might become necessary to insure proper construction, installation and public safety;
- (F) Stop the construction, repair, alteration or installation when any work done thereon is carried on in violation of this chapter or in a reckless, careless, unsafe or improper manner or when materials or appliances do not conform to the provisions of this chapter, excepting §§ 150.100*et seq.*, and Chapters 151 and 152.

(`89 Code, § 22.030)

§ 150.028 INTERFERENCE WITH INSPECTORS.

No person shall interfere with any Heating Inspector or Deputy in the execution of duties.

(`89 Code, § 22.040)

§ 150.029 PERMITS REQUIRED.

(A) A permit shall be required for:

- (1) The installation, alteration or repair (except such minor repair not involving the removal of a burner from its application) of any gas burner or gas equipment;
- (2) The installation, alteration or repair (except minor repair work) of any heating system, except stoves;
- (3) The installation of any device or apparatus requiring the use of manufactured gas, natural gas or liquid petroleum gas. Such permits shall be issued to licensed installers only.

(B) Application for permits shall be filed with the engineer.

(`89 Code, § 22.050)

§ 150.030 LIMITATION ON PERMITS.

No permits shall be issued by the city for installation or connection for use of any gas-fired apparatus or equipment (except domestic ranges, refrigerators, water heaters or any gas equipment of less than 50,000 BTU per hour) supplied from the general gas distribution system of the Northern States Power Company located within the city, unless the application is accompanied by a statement from the power company stating that it has the facilities and capacity to serve the equipment or apparatus at the location designated.

(`89 Code, § 22.060)

§ 150.031 PERMIT FEES.

Fees for all permits issued under this chapter shall be as established by Council ordinance.

(`89 Code, § 22.070)

§ 150.032 WORK WITHOUT PERMITS.

Any person who shall commence work of any kind for which a permit is required under this chapter without having first received the necessary permit therefore shall, when subsequently receiving such permit, be required to pay double the fees provided for such permit and shall be subject to all the penal provisions of this code.

(`89 Code, § 22.080)

§ 150.033 PERMIT EXPIRATIONS.

Any permit issued under the provisions of this subchapter shall become invalid at the end of 90 days from date of issuance unless the work for which the permit was issued has been started. This time limit may be extended by the Council, provided that application for such extension of time be made in writing previous to the expiration date of the permit.

(`89 Code, § 22.090)

§ 150.034 INSPECTIONS.

(A) Immediately after the installation of any appliance or device to be operated by gas, the installer shall notify the Heating Inspector. When the Inspector is satisfied that the installation of the gas appliance or device is correct and proper, the Inspector shall issue a certificate of inspection authorizing the gas to be turned on for such appliance or device. All gas piping shall be inspected before concealment and the person installing such piping shall notify the Inspector at least 48 hours before covering the pipe. No certificate of inspection shall be issued unless the work is done in strict conformity with the provisions of this Code, the statutes of the State of Minnesota and the rules and regulations of the State Fire Marshal.

(B) Whenever it becomes necessary for the Heating Inspector to reinspect any work which has been found faulty during the first inspection, a reinspection fee, as set by the Council, shall be paid by the permittee.

(`89 Code, § 22.100)

§ 150.035 WORK STOPPED BY INSPECTOR.

When any work shall have been stopped by an Inspector for any reason whatsoever, it shall not again be resumed until the Inspector shall have been satisfied that the reason for work stoppage has been completely removed.

(`89 Code, § 22.110)

§ 150.036 BEST POSSIBLE MATERIALS AND WORKMANSHIP.

The apparent silence of this chapter and Chapters 151 and 152 as to any detail concerning the method of performing any of the work described herein or any of the materials or appliances to be used in connection with the work shall be regarded as meaning only the best general practice is to prevail and that all materials and workmanship are to be of the best type and character which shall provide the best final result in said work. In any cases where this Code omits specific reference to any work or materials which may in fairness be implied, the permittee shall perform such work and furnish such materials and appliances that the work will be complete according to good practice and in the best interest of the public.

(`89 Code, § 22.120)

§ 150.050 ELECTRICAL INSPECTOR.

The Manager shall appoint an Electrical Inspector. The Electrical Inspector shall meet the following qualifications: be of good moral character; be possessed of such executive ability as is requisite for the performance of the duties and have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment; be well versed in approved methods of construction for safety to persons and property, the statutes of the State of Minnesota relating to electrical work and any orders, rules and regulations issued by authority thereof, and the National Electrical Code, as approved by the American Standards Association; have had at least five years experience as an Electrical Inspector, or in lieu of such experience shall be a graduate in electrical or mechanical engineering of a college or university considered by the Manager as having suitable requirements for graduation and shall have had two years practical electrical experience.

(`89 Code, § 23.010)

§ 150.051 POWERS AND DUTIES.

The Electrical Inspector shall:

(A) Enforce the provisions of this chapter;

(B) Upon application grant permits of the installation or alteration of electrical equipment and make inspections of electrical installations;

(C) Keep complete records of all permits issued, inspections and re-inspections made and other official work performed;

(D) Employ, after receiving the approval of the Manager, any assistant inspectors and clerical assistants necessary for the proper conduct of the office and the inspection of electrical installations. Such assistants may be delegated any of the powers or duties of the Electrical Inspector.

(`89 Code, § 23.020)

§ 150.052 DANGEROUS EQUIPMENT OR WIRING.

When any electrical equipment is found by the Electrical Inspector to be dangerous, the persons responsible for the electrical equipment shall be notified in writing and shall make any changes or repairs required in the judgment of the Electrical Inspector to place such equipment in safe conditions. If such work is not completed within 15 days or such longer period as may be specified by the Electrical Inspector in said notice, the Electrical Inspector shall have the authority to disconnect or order the discontinuance of electric service to said electrical equipment. In cases of emergency where necessary for safety to persons or property, or where electrical equipment may interfere with the work of the Fire Department, the Electrical Inspector shall have the authority to disconnect or cause the disconnection immediately of any electrical equipment.

(`89 Code, § 23.030)

§ 150.053 APPLICATION.

Application for a permit, describing the work to be done, shall be made in writing to the Engineer by the person installing the work. The application shall be accompanied by such plans, specifications and schedules as may be necessary to determine whether the installations as described will be in conformity with the requirements of this chapter. If it shall be found that the installation as described will conform with all legal requirements and if the applicant has complied with all provisions of this chapter, a permit for such installations shall be issued. No deviation may be made from the installation prescribed in the permit without the written approval of the Electrical Inspector.

(`89 Code, § 23.040)

§ 150.054 STATUTES ADOPTED BY REFERENCE.

M.S. §§ 326.01 and 326.241 through 326.248, as they may be amended from time to time, are adopted by reference, together with

all amendments thereto.

(`89 Code, § 23.060)

§ 150.055 INSPECTION FEES.

The fee for the electrical permits shall be set by ordinance of the Council and shall be paid in full at the time the application for the permit is made.

(`89 Code, § 23.070)

§ 150.056 VIOLATIONS.

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.

(`89 Code, § 23.050)

PLUMBING CODE

§ 150.070 MINNESOTA PLUMBING CODE ADOPTED.

The *Minnesota Plumbing Code*, as filed with the Secretary of State and the Department of Administration, as amended, is adopted and shall be in full force and effect in this city insofar as applicable to plumbing and building construction therein, except as otherwise provided by this chapter. All work done in this city shall be done in accordance with the provisions thereof.

(`89 Code, § 24.010)

§ 150.071 COPIES OF CODE TO BE FILED.

One copy of the *Minnesota Plumbing Code* shall be kept on file for public inspection in the office of the City Manager. Such copies shall be marked "City of North St. Paul Official Copy."

(`89 Code, § 24.020)

§ 150.072 PERMITS REQUIRED.

It shall be unlawful to construct, install, alter or repair any plumbing, drain, vent, water closet, sink, lavatory or other plumbing fixture within the city without first obtaining a permit to do such work. Application for such permit shall be made at the office of the engineer on forms supplied by the city.

(`89 Code, § 24.030)

§ 150.073 PERMIT FEES.

Fees for all permits issued under this chapter shall be as established by Council ordinance.

(`89 Code, § 24.040)

§ 150.074 SEWER AND WATER CONNECTIONS IN SAME TRENCH.

All sewer water connections to the city sewer and water systems, which are laid in the same trench, shall be of the following materials:

(A) Sewer connections shall be of cast iron pipe or P.V.C. of a quality approved by the Public Works Superintendent;

(B) Water connections shall be of copper tubing of a quality approved by the Public Works Superintendent.

('89 Code, § 24.050)

§ 150.075 INSPECTIONS BY CITY.

(A) It shall be the duty of the Engineer and the Plumbing Inspectors designated by the Manager to enforce the provisions of this chapter. All plumbing work constructed shall be inspected and, if found not to be in accordance with this chapter, shall be corrected. If after written notice to the person installing work requiring correction, the person neglects or refuses to conform to such order, the city or any duly appointed Inspector may remove such work and charge the cost thereof to the person installing the same. No person shall cover any plumbing work until it has been inspected.

(B) No person shall refuse to make corrections required by the city.

('89 Code, § 24.060)

ENVIRONMENTAL POLICY

§ 150.085 ENVIRONMENTAL REVIEW PROGRAM.

This city will follow the environmental review operating procedures in implementing the provisions of M.S. Chapter 116D, as it may be amended from time to time, relating to the Environmental Review Program and any rules adopted thereunder by the Minnesota Environmental Quality Board. All terms used in this subchapter shall have the same meaning as the terms used in M.S. Chapter 116D, as it may be amended from time to time, and the rules adopted thereunder are adopted by reference.

('89 Code, § 28.010)

§ 150.086 COST OF PREPARATION AND REVIEW.

(A) *Information to be provided.* The applicant for a permit for any action for which environmental documents are required either by state law or rules or by the Council shall supply, in the manner prescribed by the Manager, all unprivileged data or information reasonably requested by the city that the applicant has in possession or to which has reasonable access.

(B) *Environmental assessment worksheets.* The applicant for a permit for any action for which an environmental assessment worksheet (EAW) is required, either by state law or rules, or by the Council, shall pay all costs of preparation and review of the EAW, and, upon the request of and in the manner prescribed by the Manager, shall prepare a draft EAW and supply all information necessary to complete that document.

(C) *Environmental impact statement.* The city and the applicant for a permit for any action for which an environmental impact statement (EIS) is required shall comply with the provisions of the Rules Governing Assessment of Costs for Environmental Impact Statements, one copy of which is on file in the office of the City Manager, unless the applicant and the Council provide otherwise by a written agreement.

(D) *Payment of costs.* No permit for an action, for which an EAW or an EIS is required, shall be issued until all costs of preparation and review, which are to be paid by the applicant, are paid, and all information required is supplied, and until the environment review process has been completed, as provided in this subchapter and the rules adopted by reference by this subchapter.

(E) *Agreements concerning cost of preparation and review.* The applicant for a permit, for any action which an EAW or EIS is required, and the Council may, in writing, agree to a different division of the costs of preparation and review of any EAW or EIS than as provided in the rules adopted by reference by this subchapter.

('89 Code, § 28.020)

§ 150.087 ADMINISTRATION.

(A) The Manager shall be the person responsible for the administration of the Environmental Review Program, this subchapter and the rules adopted by reference by this subchapter.

(B) The Manager shall be responsible for determining whether an action for which a permit is required is an action for which EAW is mandatory, or for which an optional EAW may be required under the provisions of the subchapter, and shall notify the Planning Commission and the Council of these proposed actions.

(C) All EAW's and EIS's shall be prepared under the supervision of Manager, reviewed by the Planning Commission and reviewed and approved by the Council.

(D) When reviewing an EAW or EIS, the Manager and the Planning Commission may suggest design alterations which would lessen the environmental impact of the action. The Council may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.

(E) After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the Council whether or not it should require the preparation of an EIS. The Council shall require an EIS when it finds that an action is major and has potential for significant environmental effects.

('89 Code, § 28.030)

§ 150.088 OPTIONAL EAW.

(A) The Council may, upon recommendation by the Manager, require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects.

(B) The following guidelines shall also be considered in determining whether an optional EAW shall be required:

- (1) Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?
- (2) Is the action likely to have disruptive effects such as generating traffic and noise?
- (3) Are there public questions or controversy concerning the environmental effects of the proposed actions?

('89 Code, § 28.040)

§ 150.089 ENFORCEMENT.

(A) No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this subchapter are completed.

(B) Any person who violates any provisions of this subchapter is guilty of a misdemeanor. Each day that the violation is permitted to exist constitutes a separate offense.

(C) No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this subchapter are fully complied with.

('89 Code, § 28.050)

SWIMMING POOLS

§ 150.100 DEFINITIONS.

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

ABOVEGROUND POOLS. All swimming pools that are constructed or erected so that the edge of the pool is at least four feet

above the ground and which is reached only by means of a ladder.

WADING POOLS. All portable pools which contain 24 inches of water or less.

IN-GROUND POOLS. All other pools.

(`89 Code, § 25.010)

§ 150.101 PERMITS.

No pools except wading pools shall be constructed or erected within the city limits unless a building permit is first received from the engineer.

(`89 Code, § 25.020)

§ 150.102 SAFETY REQUIREMENTS.

All pools shall comply with the following:

(A) All in-ground pools shall be completely enclosed by a non-climbing type fence at least four feet high. All fence openings or points of entry into the pool area enclosures shall be equipped with gates. The fence and gates shall be constructed of a minimum number 11 gauge woven wire mesh corrosion-resistance material or other materials approved by the engineer. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate or otherwise inaccessible to small children. All fence posts shall be decay or corrosion- resistant and shall be set in concrete bases or other suitable protection. The openings between the bottom of the fence and the ground or other surface shall not be more than four inches;

(B) All above-ground pools shall be constructed or erected so that access to the pool can only be had by means of a ladder. Braces or structural supports shall be so attached that no child can climb the same to gain entrance to the pool. All ladders shall be detachable and so placed that no child can use them to gain entrance to the pool without the owner's consent;

(C) Wading pools shall be emptied when not in use;

(D) Non-breakable or non-tearable type covers, securely attached to the pool, and which completely cover the pool may be used in lieu of the requirements of divisions (A), (B) and (C) above;

(E) An adult or skilled swimmer shall be present at all times that the pools are in use;

(F) All pools, except wading pools, shall be equipped with one or more throwing ring buoys not more than 15 inches in diameter with a 60 foot long 3/16 inch rope attached and one or more light but strong poles with blunted ends and not less than 12 feet in length for making assists or rescues;

(G) Diving boards shall not be higher than one meter.

(`89 Code, § 25.030)

§ 150.103 OPERATION AND MAINTENANCE.

No pools shall be used, kept, maintained or operated in the city if such use, keeping, maintaining or operation shall be a nuisance or shall be dangerous to life or detrimental to health.

(`89 Code, § 25.040)

§ 150.104 INSPECTIONS.

All pools that fail to comply with the city code or state law shall be closed and locked and shall not be reopened until the law is complied with.

(`89 Code, § 25.050)

Section

- 151.01 Definition
- 151.02 Dangerous buildings a nuisance
- 151.03 Standards for repair, vacation or demolition
- 151.04 Inspections
- 151.05 Use of condemned building
- 151.06 Removal of placard
- 151.07 Appeal to Council; petition
- 151.08 Action by Council on appeal
- 151.09 Notice to be obeyed

§ 151.01 DEFINITION.

Any building or structure which has one or more of the following defects shall be deemed ***DANGEROUS***:

- (A) Interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle one-third of its base;
- (B) Improperly distributed loads upon the floors or roofs or with overloaded floors or roofs with insufficient strength to be reasonably safe for the purpose used;
- (C) Damage by fire, wind or other causes so as to be dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city;
- (D) Dilapidated, decayed, unsafe, vermin infested or unsanitary or failing to provide the amenities essential to decent living so as to be unfit for human habitation or likely to cause sickness or disease so as to work injury to the health, moral safety and general welfare of those living therein or of the public;
- (E) Light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live there or of the public;
- (F) Inadequate facilities for egress in case of fire or panic or with insufficient stairways, elevators, fire escapes or other means of communication;
- (G) Parts thereof which are so attached that they may fall and injure members of the public or property;
- (H) A condition or location unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the occupants or of the public;
- (I) Violates any provisions of this code.

('89 Code, § 21.010)

§ 151.02 DANGEROUS BUILDINGS A NUISANCE.

Any dangerous building is declared to be a public nuisance and shall be repaired, vacated or demolished as provided by this chapter.

('89 Code, § 21.020)

§ 151.03 STANDARDS FOR REPAIR, VACATION OR DEMOLITION.

The following standards shall be followed in substance by the Building Inspector and Council in ordering repair, vacation or demolition of a dangerous building.

(A) If the building can reasonably be repaired, so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.

(B) If the building is in such a condition as to make it dangerous to the health, morals, safety or general welfare of its occupants or of the public, it shall be ordered to be vacated.

(C) In any case where a building is 50% damaged or decayed or deteriorated from its original value or structure, it shall be demolished; and in cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this code or of a statute of the State of Minnesota, it shall be demolished.

('89 Code, § 21.030)

§ 151.04 INSPECTIONS.

(A) *Ordinary.*

(1) Upon complaint of any person, or upon their own volition, the Building Inspector or Fire Chief or their authorized agents are authorized to make a preliminary inspection of any structure which appears to be dangerous or hazardous. If the official making the inspection is denied access to the structure, and if the preliminary inspection indicates a probable cause to believe the structure is dangerous or hazardous, the official making the inspection shall cause to be served on the occupant, or the owner if the structure is unoccupied, a written notice giving the date and time, at least 20 days later, on which he or she is to be allowed entry into the structure. At that time, all appropriate city officials are authorized to inspect the structure and make their reports to the City Council.

(2) If the occupant or owner of the structure refuses, without reasonable grounds, to allow the city inspectors access to the structure, the person, firm or corporation shall be deemed guilty of a violation of § 130.06, Cooperation with Public Officer; in addition thereto, the city, upon resolution of the Council, may seek in a court of competent jurisdiction such order as may be necessary to carry out the provisions of this Code.

(B) *Emergency.*

(1) Whenever, in the judgment of the Building Inspector or Fire Chief, an emergency exists which requires immediate action to protect the health, safety or welfare of the public, or any member thereof, they may, with or without prior notice, enter any structure for the purpose of confirming that an emergency exists. If, in fact, an emergency exists, the official shall issue such notice to the occupant or owner as is necessary to abate the emergency, including the vacation of the structure by the occupants; or, if circumstances are such that there is no time to give such notice, the official shall immediately take such actions as are necessary to abate said emergency, including the vacation of the structure by the occupants.

(2) In case of emergency, the city inspectors shall only enter a structure when accompanied by a police officer of the city and when proper identification is given to the occupant. If the structure is unoccupied, written notice of the inspection shall be mailed to the owner as soon as possible.

(3) If entry is forced, the structure shall be made secure after the entry by the city, and all such costs shall be chargeable against the owner, if unoccupied, or the occupant, if occupied.

(4) A report of all emergency inspections shall be given to the Manager and Council as soon as possible after the inspection is made. No emergency inspections shall be made without prior written notification to the Manager, or a duly authorized agent in the absence of the Manager.

('89 Code, § 21.040)

§ 151.05 USE OF CONDEMNED BUILDING.

Any building which has been condemned and placarded as a dangerous building by the Building Inspector shall be vacated within a reasonable time as stated in the notice provided for in § 151.04. No owner, lessee or occupant shall rent to any person for human

habitation, and no person shall occupy any building or structure which has been condemned and placarded by the Building Inspector after the date on which said Building Inspector has required the affected building or structure to be vacated. No building or structure which has been condemned and placarded as a dangerous building shall again be used or occupied until written approval is secured from and such placard removed by the Building Inspector.

(`89 Code, § 21.050)

§ 151.06 REMOVAL OF PLACARD.

The Building Inspector shall remove the "condemned" placard from a building whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. No person shall deface or remove the placard from any building or structure which has been condemned as a dangerous building and placarded as such, except the Building Inspector.

(`89 Code, § 21.060)

§ 151.07 APPEAL TO COUNCIL; PETITION.

Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter may request and shall be granted a hearing on the matter before the Council; provided, that such person shall file in the office of the City Manager a written petition requesting such hearing and setting forth a statement of the grounds therefore within 20 days after the day the notice was served. Within 15 days of receipt of a petition, the Council shall set a time and place for such hearing and shall give the petitioner written notice thereof, and at such hearing the petitioner shall be given an opportunity to be heard and to show cause why such notice shall be modified or withdrawn. The hearing before the Council shall be commenced not later than 30 days after the date on which the petition was filed; provided that upon written application of the petitioner to the Council so requesting the Council may, if it finds that the petitioner has established good and sufficient cause, postpone the hearing for a reasonable time beyond the said 30 days. Any notice served pursuant to § 151.04 shall automatically become a final order if a written petition for a hearing is not filed as provided by this section.

(`89 Code, § 21.070)

§ 151.08 ACTION BY COUNCIL ON APPEAL.

After the hearing provided for by § 151.07, the Council shall sustain, modify or withdraw the notice, depending upon its findings as to whether the provisions of this chapter have been complied with. The Council may also modify a notice so as to authorize a variance from the provisions of this chapter when, because of special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship; provided, that the spirit of this chapter will be observed, public health and welfare secured and substantial justice done. If the Council sustains or modifies such notice, it shall be deemed to be a final order, and the owner, occupant, lessee, mortgagee, agent or other person having an interest in said building or structure shall comply with all provisions of such order within a reasonable period of time as determined by the Council.

(`89 Code, § 21.080)

§ 151.09 NOTICE TO BE OBEYED.

No person shall fail to comply with the provisions of any notice issued under § 151.04. Each day a person shall fail to comply with a notice after the date set forth in the notice for compliance shall constitute a separate violation of this section.

(`89 Code, § 21.090)

CHAPTER 152: STRUCTURES AND PREMISES MAINTENANCE AND OCCUPANCY CODE

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GENERAL PROVISIONS

§ 152.01 PURPOSE.

(A) The purpose of this Code is to protect the public health, safety, comfort, morals and the general welfare of the people of the city. These general objectives include, among others, the following:

- (1) To protect the character and stability of residential, industrial and commercial areas within the city;
- (2) To correct and prevent structure conditions which adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying structures within North St. Paul;
- (3) To provide minimum standards for light and ventilation, necessary to health and safety;
- (4) To prevent the overcrowding of dwellings by providing minimum space standards per occupant for each dwelling unit;
- (5) To provide minimum standards for the maintenance of existing buildings and to thus prohibit slums and blight.

(B) With respect to rental disputes, and except as otherwise specifically provided by the terms of this chapter, it is not the intention of the Council to intrude upon the fair and accepted contractual relationship between tenant and landlord. The Council does not intend to intervene as an advocate of either party, nor to act as an arbiter, nor to be receptive to complaints from tenant or landlord which are not specifically and clearly relevant to the provisions of this chapter. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of city government.

('89 Code, § 27.010)

§ 152.02 APPLICATION.

This Code applies to all buildings, as well as its premises, and all occupied premises within in the City of North St. Paul.

('89 Code, § 27.020)

§ 152.03 DEFINITIONS.

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

ACCESSORY STRUCTURE. A structure subordinate to the main or principal dwelling or dwellings and which is not used nor authorized to be used for living or sleeping by human occupants and which is located on or partially on the premises.

BUILDING. Any structure erected for the support shelter or enclosure of persons, animals chattels or property of any kind.

COMPLIANCE OFFICIAL. The Manager and designated agents authorized to administer and enforce this Code.

DWELLING. A building, or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including one family dwellings, two family dwellings and multiple family dwellings, but not including hotels or motels.

DWELLING UNIT. A single residential accommodation which is arranged, designed, used or intended for use exclusively as living quarters for one family; must include complete permanently installed kitchen facilities. Where a private garage is structurally attached, it shall be considered as part of the building in which the dwelling unit is located.

FAMILY. One or more person related by blood, adoption, foster children or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants; a number or persons but not exceeding three living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage; or a number of persons, not exceeding two, living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage where one of the two persons has natural, adoptive or foster children also living with them.

FLUSH WATER CLOSET. A toilet bowl flushed with water under pressure with a water sealed trap above the floor level.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

HABITABLE BUILDING. Any building or part thereof that meets minimum standards for use as a home or place of abode by one or more persons.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements, 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 measured at a 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.

MULTIPLE FAMILY DWELLING. A dwelling or portion thereof containing three or more dwelling units.

OCCUPANT. A person occupying any structure, building, dwelling, dwelling unit, room unit or premises.

OCCUPY. Any person who is or was physically present, or who could prohibit others from being physically present on or in any structure, building, dwelling, dwelling unit, rooming unit or premises, shall be deemed to occupy the same for the purposes of this chapter.

OPERATOR. The owner or agent who has charge, care, control or management of a building.

OWNER. Any person, firm or corporation who, alone, jointly or severally with others, shall be in actual possession of or have charge, care or control of any structure or premises within the city as owner, employee or agent of the owner or as trustees or guardian of the estate or person of the title holder. Any such person representing the actual owner shall be bound to comply with the provisions of this code to the same extent as the owner.

PERMISSIBLE OCCUPANCY. The maximum number of persons permitted to reside in a dwelling unit, rooming unit or structure.

PLUMBING. All of the following supplied facilities and equipment in a dwelling: gas pipes, gas burning equipment, water pipes, steam pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar fixtures and the installation thereof, together with all connections to water, sewer and gas lines.

PREMISES. Any platted or unplatted lot and lots abutting each other, under common ownership, occupied or capable of being occupied.

PUBLIC HALL. A hall, corridor or passageway for providing egress from an occupied unit to a public way and not within the exclusive control of one occupant.

REFUSE. All putrescible and nonputrescible waste solids, including garbage and rubbish.

RENTAL DWELLING or **DWELLING 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 a living and sleeping, but not for cooking and eating purposes.

RUBBISH. Nonputrescible solid wastes consisting of both combustible wastes and noncombustible wastes, such as paper, cardboard, tin cans, grass and shrubbery clippings, wood, glass, brick, plaster, bedding, crockery and similar materials.

SAFETY. The condition of being reasonably free from danger and hazards which may cause accidents or disease.

STRUCTURE. Same as building.

SUBSTANDARD DWELLING OR STRUCTURE. Any dwelling or structure which does not conform to the minimum standards established by city ordinance.

SUPPLIES. Paid for, furnished by, provided by or under the control of the owner, operator or agent of a dwelling.

(`89 Code, § 27.030)

§ 152.04 MEANING OF CERTAIN WORDS.

Whenever the words ***DWELLING***, ***DWELLINGUNIT*** or ***STRUCTURE*** are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(`89 Code, § 27.030)

§ 152.05 RESPONSIBILITIES OF OWNER AND OCCUPANTS.

No owner or other person shall occupy or let another person occupy any structure, building, dwelling, dwelling unit, rooming unit or premises unless the same are clean, sanitary and fit for human use and which complies with all applicable legal requirements of the State of Minnesota and the City of North St. Paul, including all ordinances thereof.

(`89 Code, § 27.040)

REGULATIONS

§ 152.15 MAINTENANCE OF SHARED OR PUBLIC AREAS.

Every owner of a structure containing two or more occupants shall maintain in a clean and sanitary condition the shared or public areas of the structure and premises thereof.

(`89 Code, § 27.050)

§ 152.16 MAINTENANCE OF OCCUPIED AREAS.

Every occupant of a structure, dwelling unit or rooming unit shall maintain in a clean and sanitary condition that part or those parts of the structure, dwelling unit and premises thereof that he or she occupies and controls. In case of more than one occupant, each shall be deemed to occupy and control the entire structure, dwelling unit or premises.

(`89 Code, § 27.060)

§ 152.17 STORAGE AND DISPOSAL OF RUBBISH AND GARBAGE.

(A) *Rubbish.* Every occupant of a structure, dwelling unit or rooming unit shall store and dispose of all rubbish in a clean, sanitary and safe manner as prescribed by the city ordinances.

(`89 Code, § 27.070)

(B) *Garbage*. Every occupant of a dwelling, dwelling unit or rooming unit shall store and dispose of all garbage and any other organic waste which might provide food for insects and/or rodents in a clean, sanitary and safe manner as prescribed by city ordinances.

(`89 Code, § 27.080)

(C) *Responsibility for storage and disposal of garbage and rubbish*. Every owner of a multiple family dwelling or rooming unit shall supply facilities for the sanitary and safe storage and/or disposal of rubbish and garbage. In the case of single or two family dwellings or a commercial or industrial structure, it shall be the responsibility of the occupant to furnish such facilities.

(`89 Code, § 27.090)

§ 152.18 RESPONSIBILITY FOR STORM AND SCREEN DOORS AND WINDOWS.

The owner of a rental dwelling unit shall be responsible for providing and hanging all screens and storm doors and storm windows whenever the same are required under the provisions of this Code, except where there is written agreement otherwise between the owner and occupant.

(`89 Code, § 27.100)

§ 152.19 RESPONSIBILITY FOR PEST EXTERMINATION.

Every occupant of a structure shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever the dwelling unit is the only one infested; notwithstanding, however, whenever infestation is caused by the failure of the owner to maintain a dwelling in a reasonable rodent-proof or reasonable vermin-proof condition.

(`89 Code, § 27.110)

§ 152.20 RODENT HARBORAGES PROHIBITED; PREVENTION OF FOOD FOR RODENTS.

(A) *Rodent harborages prohibited in occupied areas*. No occupant of any structure shall accumulate boxes, lumber, scrap metal or any other similar materials in such a manner that may provide a rodent harborage in or about any dwelling or dwelling unit. Stored materials shall be stacked neatly in piles.

(`89 Code, § 27.120)

(B) *Rodent harborages prohibited in public areas*. No owner of a structure containing two or more dwelling units shall accumulate or permit the accumulation of boxes, lumber, scrap metal or any other similar materials in such a manner that may provide a rodent harborage in or about shared or public areas by a dwelling or its premises. Materials stored by the owner or permitted to be stored by the owner shall be stacked neatly in piles.

(`89 Code, § 27.130)

(C) *Prevention of food for rodents*. No owner or occupant of any structure or accessory structure shall store, place or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.

(`89 Code, § 27.140)

§ 152.21 SANITARY MAINTENANCE OF FIXTURES AND FACILITIES.

Every occupant of any structure shall keep all supplied fixtures and facilities therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(`89 Code, § 27.150)

§ 152.22 REMOVAL OF SNOW AND ICE.

The owner of a multiple family dwelling or industrial or commercial structure shall be responsible for the removal of snow and ice from parking lots, driveways, steps and walkways on the premises to insure safe pedestrian and vehicular movement; except where there is written agreement otherwise between the owner and occupant.

(`89 Code, § 27.170)

§ 152.23 MAINTENANCE OF DRIVING AND PARKING AREAS.

The owner of a multiple family dwelling industrial or commercial structure shall be responsible for providing and maintaining in good condition paved and delineated parking areas and driveways for tenants consistent with city ordinances.

(`89 Code, § 27.190)

§ 152.24 MAINTENANCE OF YARDS.

The owner of a single or two family dwelling, multiple family dwelling or commercial or industrial premises shall be responsible for providing and maintaining in reasonably good condition yards consisting of weeds, grass lawn, trees, shrubs and other vegetation free and clear of all garbage, refuse, piles of dirt or evacuations for which grading permit has not been taken out.

(`89 Code, § 27.200)

MINIMUM STANDARDS; REQUIREMENTS

§ 152.35 MINIMUM HEATING CAPABILITY AND MAINTENANCE.

In every dwelling unit or rooming unit when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least 68 degrees Fahrenheit or such lesser temperature required by government authority shall be maintained at a distance of three feet above the floor in all habitable rooms, bathrooms and water closet compartments from September through May. Commercial and industrial structures shall meet State of Minnesota regulations and statute requirements.

(`89 Code, § 27.160)

Cross-reference:

See also § 152.39

§ 152.36 MINIMUM EXTERIOR LIGHTING.

The owner of a multiple family dwelling or industrial or commercial structure shall be responsible for providing and maintaining adequate illumination in all exterior parking lots and walkways.

(`89 Code, § 27.180)

§ 152.37 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.

(A) *General requirements.* No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking and eating therein, which does not comply with the following requirements:

(1) A kitchen sink in good working condition and properly connected to an approved water supply system and which provides at all times an adequate amount of heated and unheated running water under pressure and which is connected to an approved sewer system;

(2) Cabinets and/or shelves for the storage of eating, drinking and cooking equipment and utensils and of food that does not require refrigeration for safekeeping and a counter or table for food preparation. Said cabinets and/or shelves and counter or table shall be adequate for the permissible occupancy of the dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food;

(3) A stove or similar device for cooking food and a refrigerator or similar device for the safe storage of food which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that such stove, refrigerator or similar devices need not be installed when a dwelling unit is not occupied and when the occupant is expected to provide same on occupancy, in which case sufficient space and adequate connections for the installation and operation of the stove, refrigerator or similar device must be provided.

(B) *Toilet facilities.* Within every dwelling unit there shall be a non-habitable room with an entrance door which affords privacy to a person within said room and which room is equipped with a flush water closet in good working condition. Said flush water closet shall be equipped with easily cleanable surfaces, shall be connected to an approved water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly and shall be connected to an approved sewer system. Industrial and commercial structures shall meet State of Minnesota regulations and statute requirements.

(C) *Lavatory sink.* Within every dwelling unit there shall be a lavatory sink. The lavatory sink may be in the same room as the flush water closet, or if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room in which said water closet is located. The lavatory sink shall be in good working condition and shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated running water under pressure and shall be connected to an approved sewer system. Industrial and commercial structures shall meet State of Minnesota regulations and statute requirements.

(D) *Bathtub or shower.* Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition. The bathtub or shower may be in the same room as the flush water closet or in another room and shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated water under pressure and shall be connected to an approved sewer system. Industrial and commercial structures shall meet State of Minnesota regulations and statute requirements.

(E) *Stairways, porches and balconies.* Every stairway, inside or outside of a dwelling, and every porch or balcony shall be kept in safe condition and sound repair. Every flight or stairs and every porch and balcony floor shall be free of deterioration. Every stairwell and every flight of stairs which is more than four risers high shall have handrails not less than 30 inches high, measured vertically from the nose of the stair tread to the top of the handrail. Every porch which is more than four risers high and every balcony shall have handrails not less than 30 inches above the floor of the porch or balcony. Every handrail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled out of its intended position or have pulled away from the supporting or adjacent structures enough to cause a hazard. No flight of stairs shall have rotting, loose or deteriorating supports. The treads and risers of every flight of stairs shall be uniform in width and height. Stairways shall be capable of supporting a live load of 100 pounds per square foot of horizontal projection. Industrial and commercial structures shall meet State of Minnesota regulations and statute requirements.

(F) *Access to dwelling unit.* Access to or egress from each dwelling unit shall be provided without passing through any other dwelling unit or commercial or industrial establishment.

(G) *Door locks.* No owner shall occupy nor let to another for occupancy any dwelling or dwelling unit or industrial or commercial structure unless all exterior doors of the structure are equipped with safe, functioning locking devices. Multiple family dwellings shall be furnished with door locks as follows:

(1) For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multiple family dwellings, an approved security system shall be provided for each multiple family building to control access. The security system shall consist of locked building entrance or foyer doors and locked doors leading from hallways into individual dwelling units. Dead-bolt type door locks shall be provided with lever knobs (or doorknobs) on the inside of building entrance doors and with key cylinders on the outside of building entrance doors. Building entrance door latches shall be of a type that are permanently locked from the outside and permanently unlocked from the inside;

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

(H) *House numbers.* No owner shall occupy nor let to another for occupancy any dwelling unit or apartment building or any industrial or commercial structure unless the dwelling unit or structure displays the proper street number, conforming to the following

requirements:

- (1) All numbers shall be not less than three inches high;
- (2) All houses shall display numbers in a color that contrasts with the color of the structure;
- (3) All new homes shall display the proper house number prior to occupancy.

('89 Code, § 27.210)

§ 152.38 MINIMUM STANDARDS FOR LIGHT AND VENTILATION.

No person shall occupy as owner, occupant or let to another for occupancy any dwelling, dwelling unit or rooming unit for the purpose of living therein, which does not comply with the following requirements.

(A) *Habitable room ventilation.* Except where there is supplied some other device affording adequate ventilation and approved by the Compliance Official, every habitable room shall have at least one window facing directly outdoors which can be opened easily. The minimum total or openable window area in every habitable room shall be the greater of 4% of the floor area of the room or four square feet.

(B) *Nonhabitable room ventilation.* Every bathroom and water closet compartment and every laundry and utility room shall contain at least 50% of the ventilation requirement for habitable rooms contained in division (A) of this section, except that no windows shall be required if such rooms are equipped with a ventilation system which is approved by the Compliance Official. Industrial and commercial structures shall meet State of Minnesota regulations and statute requirements.

(C) *Electric service, outlets and fixtures.* Every dwelling unit and all public and common areas shall be supplied with electric service functioning over current protection devices, electric outlets and electric fixtures which are properly installed, which shall be maintained in good and safe working conditions and shall be connected to a source of electric power in a manner prescribed by the ordinances, rules and regulations of the City of North St. Paul and by the laws of the State of Minnesota. The minimum capacity of such electric service and the minimum number of electric outlets and fixtures shall be as follows:

- (1) Dwellings containing one or two dwelling units shall have at least the equivalent of 60 ampere, three wire electric service per dwelling unit as a condition of sale;
- (2) Dwelling units shall have at least one branch electric circuit for each 600 square feet of dwelling unit floor area;
- (3) Every habitable room shall have at least one floor or wall-type electric convenience outlet for each 60 square feet or fraction thereof of total floor area and in no case less than two such electric outlets; provided, however, that one ceiling or wall-type light fixture may be supplied in lieu of one required electric outlet;
- (4) Every water closet compartment, bathroom, kitchen, laundry room and furnace room shall contain at least one supplied ceiling or wall-type electric light fixture and every bathroom and laundry room shall contain at least one electric convenience outlet;
- (5) Every public hall and stairway in every multiple family dwelling shall be adequately lighted by natural or electric light at all times so as to provide effective illumination in all parts thereof. Every public hall and stairway in structures containing not more than two dwelling units may be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting;
- (6) A convenient switch or equivalent device for turning on a light in each dwelling unit shall be located near the points of entrance to such unit. Industrial and commercial structures shall meet State of Minnesota regulations and statute requirements.

('89 Code, § 27.220)

§ 152.39 MINIMUM THERMAL STANDARDS.

No person shall occupy as owner, occupant or let to another for occupancy any dwelling, dwelling unit or rooming unit for the purpose of living therein which does not have heating facilities which are properly installed, which are maintained in safe and good working condition and which are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least 68 degrees Fahrenheit at a distance of three feet above floor level and three feet from exterior walls at an outside temperature of 25 degrees Fahrenheit or colder. Gas or electric

appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities within the meaning of this section. Portable heating equipment employing flame and the use of liquid fuel does not meet the requirements of this section and is prohibited. No owner or occupant shall install, operate or use a space heater employing a flame that is not vented outside the structure in an approved manner.

('89 Code, § 27.230)

§ 152.40 GENERAL REQUIREMENTS.

No person shall occupy as owner, occupant or let to another for occupancy any dwelling, dwelling unit or rooming unit for the purpose of living therein or industrial or commercial structure which does not comply with the following requirements, unless specifically exempt.

(A) *Foundations, exterior walls and roofs.* The foundation, exterior walls and exterior roof shall be substantially water tight and protected against vermin and rodents and shall be kept in sound condition and repair. The foundation element shall adequately support the building at all points. Every exterior wall shall be free of deterioration, holes, breaks, loose or rotting boards or timbers and any other condition which might admit rain or dampness to the interior portion of the walls or to the exterior spaces of the dwelling. The roof shall be tight and have no defects which admit rain, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. If the exterior surface of such a wood structure is unpainted or determined by the Compliance Official to be paint blistered, the surface shall be painted.

(B) *Windows, doors and screens.* Every window, exterior door and hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, wind, vermin and rodents from entering the building. Every window or other device with openings to outdoor space which is used or intended to be used for ventilation shall be supplied with 16-mesh screens during the insect season. Commercial and industrial structures are exempt from the above requirements except windows, doors and screens on these structures shall be kept in good repair.

(C) *Floors, interior walls and ceilings.* Every floor, interior wall and ceiling of all structures shall be adequately protected against the passage and harborage of vermin and rodents and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotted flooring materials. Every interior wall and ceiling of a dwelling, dwelling unit or public space shall be free of holes and large cracks and loose plaster and shall be maintained in a tight weatherproof condition. Plaster, paint and all other surface materials in a dwelling or dwelling unit shall be of such character as to be easily cleanable and shall be reasonably smooth, clean and tight. Toxic paint and materials shall not be used where readily accessible to children. Every toilet room and bathroom floor surface shall be substantially impervious to water and shall be capable of being maintained easily in a clean and sanitary condition.

(D) *Rodent-proof.* Every dwelling and accessory structure and industrial or commercial structure and their premises upon which they are located shall be maintained in a rodent-free and rodent-proof condition. All openings in the exterior walls, foundations, basements, ground or first floors and roofs which have a one-half inch diameter or larger opening shall be rodent-proofed in an approved manner. Interior floors or basements, cellars and other areas in contact with the soil shall be paved with concrete or other rodent impervious material.

(E) *Fence maintenance.* All fences supplied by the owner or agent on the premises and all fences erected or caused to be erected by an occupant on the premises shall consist of metal, wood, masonry or other decay resistant material. Fences shall be maintained in good condition both in appearance and structure. Wood material shall be protected against decay by use of paint or other preservatives. (See also section on fences in zoning regulations Chapter 154.)

(F) *Accessory structure maintenance.* Accessory structures supplied by the owner, agent or tenant occupant on the premises shall be structurally sound and be maintained in good repair and appearance. The exterior of such structures shall be made weather resistant through the use of decay-resistant materials such as paint or other preservatives.

(G) *Safe building elements.* Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, every porch and balcony and every appurtenance thereto shall be safe to use and capable of supporting loads that normal use may cause to be placed thereon.

(H) *Facilities to function.* Every supplied facility, piece of equipment or utility and every chimney and flue shall be installed and shall be maintained and shall function effectively in a safe, sound and working condition.

(I) *Grading and drainage.* Every yard, court, passageway and other portions of a premises shall be graded and drained so as to be free of standing water within six hours after termination of rainfall.

(J) *Yard cover.* Every yard of a premises shall be provided with adequate lawn or combined ground cover of vegetation, garden, hedges and shrubbery, and such yard shall be maintained consistent with § 152.24.

(`89 Code, § 27.240)

§ 152.41 DISCONTINUANCE OF SERVICE AND FACILITIES.

No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies.

(`89 Code, § 27.250)

§ 152.42 MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION REQUIREMENTS.

No person shall occupy nor permit or let to be occupied any dwelling, dwelling unit or rooming unit for the purpose of living therein which does not comply with the following requirements.

(A) *Permissible occupancy of dwelling unit.* The maximum permissible occupancy of any dwelling unit or rooming unit shall be determined as follows:

(1) For the first occupant, 150 square feet of habitable room floor space, and for every additional occupant thereof, at least 100 square feet of habitable room floor space;

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

(B) *One family per dwelling unit.* Not more than one family, except for temporary guests for 90 days or less, shall occupy a dwelling unit.

(`89 Code, § 27.260)

§ 152.43 MINIMUM CEILING HEIGHT.

In order to qualify as habitable, rooms shall have a clear ceiling height of not less than seven feet, six inches, except that in attics or top-half-stories used for sleeping, study or similar activities, the ceiling height shall be not less than six feet, six inches over at least one-half of the floor area. In calculating the floor area of such rooms in attics or top-half-stories, only those portions of the floor area of the room having a clear ceiling height of five feet or more may be included.

(`89 Code, § 27.270)

§ 152.44 PERMISSIBLE OCCUPANCY OF SLEEPING ROOMS.

In every dwelling unit every room occupied for sleeping purposes shall have a minimum floor area of 70 square feet. Every room occupied for sleeping purposes by more than two occupants shall contain at least 50 square feet of floor area for each occupant thereof. The floor area of closets within sleeping rooms may be credited to minimum floor area requirements.

(`89 Code, § 27.280)

§ 152.45 ACCESS THROUGH SLEEPING ROOMS AND BATHROOMS.

No dwelling unit containing two or more sleeping rooms shall have a room arrangement such that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be gained only by going through another

sleeping room, nor shall the room arrangement be such that access to a sleeping room can be gained only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hall, basement or cellar or to the exterior of any dwelling unit.

('89 Code, § 27.290)

§ 152.46 TIME LIMIT TO FINISH EXTERIOR OF A STRUCTURE.

Thirty day limit. When a structure is ready for the exterior to be finished, it shall not be allowed to remain with an unfinished exterior for more than 30 days; provided, upon application to the city showing good cause for an extension, the city may extend the time limit to a specific date beyond the 30 days.

(Ord. 672, passed 9-2-08)

ADMINISTRATION AND ENFORCEMENT

§ 152.60 ENFORCEMENT AND INSPECTION AUTHORITY.

The City Manager and designated agents shall be the Compliance Official who shall administer and enforce the provisions of this chapter and who are authorized to cause inspections on a scheduled basis and/or when reason exists to believe that a violation of this chapter has been or is being committed.

(A) *Certificate of compliance.* When the occupancy or ownership of any building containing one or more dwelling units within the City of North St. Paul is about to change, the present occupant or owner, or any agent thereof, shall make application for the certificate of compliance from the City of North St. Paul. This section shall not apply to multiple dwelling buildings and shall have no effect upon the provisions of law or other ordinances relating to the issuance of building permits.

(B) *Application; inspection.* Application for the certificate of compliance shall be made upon forms furnished by the city and approved by the City Council. Upon receipt of a properly executed application for a certificate of compliance, the Compliance Officer shall cause an inspection to be made of the premises to insure that the structure is in compliance with the minimal requirements of this Code. Such inspection shall be based upon requirements of this Code only and shall not be used to discriminate against any person on the basis of race, color, sex, income level or any other basis not contained in this Code.

(C) *Issuance of certificate.* If the structure is in compliance with the minimal requirements of this Code, the Compliance Officer shall cause a certificate of compliance to be issued to the present occupant or owner, which shall state that the structure has been inspected and is in compliance with the minimal requirements of this Code. The present occupant, owner or their agent shall obtain the certificate of compliance.

(D) *Filing of certificate by prospective occupant or purchaser.* The present occupant or owner or their agent shall furnish a copy of the certificate of compliance to the prospective occupant or owner, who shall file a copy of the certificate with the city. The proposed buyer or occupant shall not take occupancy of the building and premises prior to the filing of the certificate with the city, except that upon the filing of an affidavit by the present or prospective owner or occupant, or his or her designated agent, approved by the Compliance Officer, which sets forth the dates by which necessary corrective action shall be taken, the occupancy shall be permitted pending issuance of the certificate of compliance.

(E) *Fee.* The fee for the inspection and certificate of compliance of a building and its premises shall be set by Council ordinance.

(F) *Request by occupant.* Upon complaint of any occupant of a dwelling, dwelling unit or rooming unit and payment of the fee, the Compliance Official shall proceed under this Code as if the requirements of division (A) of this section were complied with, except that any enforcement of this Code shall be done by the occupant, pursuant to Minnesota statutes.

('89 Code, § 27.300)

§ 152.61 INSPECTION ACCESS.

If any owner, occupant or other person in charge of a dwelling, dwelling unit or rooming unit, industrial or commercial structure fails

or refuses to permit free access and entry to the structure or premises under his or her control for an inspection pursuant to this Code, the Compliance Official may seek a court order authorizing such inspection.

(`89 Code, § 27.310)

§ 152.62 UNFIT FOR HUMAN HABITATION.

(A) When any dwelling, dwelling unit, rooming unit, industrial or commercial structure is not in compliance with this Code, and such noncompliance is to such an extent that it has created an immediate hazard to the health, safety or welfare of the occupants or of the public, as determined by the Compliance Official, he or she may declare the same to be unfit for human occupancy. Whenever any premises and/or structure has been declared unfit for human occupancy, the Compliance Official shall order the same vacated, within a reasonable time, and shall post a placard on the same indicating that it is unfit for human occupancy.

(B) It shall be unlawful for such dwelling, dwelling unit, rooming unit or industrial or commercial structure to be occupied until the defective conditions have been corrected and written approval has been issued by the Compliance Official. It shall be unlawful for any person to deface or remove the declaration placard from any such premises and/or structure.

(C) All orders for vacation pursuant to this section shall be reported to the City Council, who shall hold a hearing on the same at the next regular City Council meeting following the issuance of the order. The City Council may reverse, modify or affirm, in whole or in part, any vacation order.

(`89 Code, § 27.320) Penalty, see § 10.99

§ 152.63 SECURE UNFIT AND VACATED DWELLINGS.

The owner of any dwelling, dwelling unit or rooming unit, industrial or commercial structure which has been declared unfit for human occupancy or which is otherwise vacant for a period of 60 days or more shall make same safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance. Any vacant dwelling open at doors or windows, if unguarded, shall be deemed to be a hazard to the health, safety and welfare of the public and a public nuisance within the meaning of this chapter.

(`89 Code, § 27.330)

§ 152.64 HAZARDOUS BUILDING DECLARATION.

In the event that a dwelling has been declared unfit for human occupancy and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with the provisions of Minnesota statutes and the city code.

(`89 Code, § 27.340)

§ 152.65 COMPLIANCE ORDER.

(A) Whenever the Compliance Official determines that any structure or the premises surrounding fails to meet the provisions of this Code, he or she shall issue a Compliance Order setting forth the violations of the Code and ordering the owner, occupant, operator or agent to correct such violations.

(B) This Compliance Order shall:

- (1) Be in writing;
- (2) Describe the location and nature of the violations of this Code;
- (3) Establish a reasonable time for the correction of such violations;

(4) Be served upon the owner or his or her agent or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner or agent, or upon any such occupant, if a copy thereof is:

(a) Personal service,

(b) Sent by registered mail to last known address, or

(c) Upon failure to effect notice through subsections (a) and (b) as set out in this section, posted at a conspicuous place in or above the dwelling which is affected by the notice.

('89 Code, § 27.350)

§ 152.66 RIGHT OF APPEAL.

When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this Code, such person may appeal the compliance order to the hearing officer. Such appeals must be in writing, must specify the grounds for the appeal, must be accompanied by a filing fee of \$15 in cash or cashier's check and must be filed with the City Manager within five business days after service of the compliance order. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless such a stay would cause imminent peril to life, health or property. Upon at least five business days notice to the appellant of the time and place for hearing the appeal, and within 30 days after filing said appeal, the hearing officer shall hold a hearing thereon. The hearing officer may reverse, modify or affirm, in whole or in part, the compliance order.

('89 Code, § 27.360)

§ 152.67 RESTRICTIONS ON TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of any dwelling, dwelling unit or rooming unit upon whom a pending compliance order has been served to sell, transfer, mortgage, lease or otherwise dispose thereof to another person until the provisions of the tag or compliance order have been complied with, unless such owner shall furnish to the grantee, lessee or mortgagee a true copy of any notice of acknowledging. Anyone securing an interest in the dwelling, dwelling unit or rooming unit who has received notice of the existence of a violation tag or compliance order shall be bound by same without further service and shall be liable to all penalties and procedures provided by this chapter.

('89 Code, § 27.370) Penalty, see § 10.99

§ 152.68 EXECUTION OF COMPLIANCE ORDERS BY SPECIAL ASSESSMENTS.

Upon failure to comply with a compliance order within the time set therein and no appeal having been taken, or upon failure to comply with a modified compliance order within the time set therein, the same shall be deemed a nuisance, and, in addition to the criminal penalty, the Council may, pursuant to the procedures of M.S. Chapter 429, as it may be amended from time to time, cause the cited deficiencies to be remedied by a public improvement, and specially assessed accordingly, except it shall be payable in a single installment.

('89 Code, § 27.380)

§ 152.69 ALTERNATIVE SANCTIONS.

Notwithstanding the availability of the foregoing compliance procedures and the penalties, whenever the Compliance Official determines that any dwelling, dwelling unit or rooming unit or the premises surrounding any of these fails to meet the requirements set forth in this Code, the Compliance Official may issue a violation tag summoning the responsible person into court or request the issuance of a criminal complaint and arrest warrant.

('89 Code, § 27.390)

General Provisions

- 153.01 Plat and subdivision compliance; approval
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- 153.37 Repayment of damages prior to plat approval
- 153.38 Lot splits for two family dwellings

GENERAL PROVISIONS

§ 153.01 PLAT AND SUBDIVISION COMPLIANCE; APPROVAL.

All plats and subdivisions of land in the city shall be made in accordance with the provisions of this chapter and shall have the approval of the Council by adoption of a Council resolution to that effect.

(Ord. passed 7-21-99)

§ 153.02 DEFINITIONS.

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

MAJOR STREET. A street designated as a state trunk highway, a state aid road, a county aid road, an urban expressway or an arterial city street.

STREET. Any street, avenue, boulevard, road, lane, alley, place, viaduct or other public way.

SUBDIVISION. This term means:

- (1) The division of land by platting, conveyance, registered land survey or other means into two or more lots, plats, sites or other divisions, any of which is less than five acres in area;
- (2) A division of land, regardless of area, if such division or plat provides for the granting or dedicating of a public street;
- (3) The re-subdivision of land heretofore divided or platted into lots, sites or parcels, where the total area of the land being re-subdivided is one acre or more.
- (4) A street means any street, avenue, boulevard, road, lane, alley, place, viaduct or other public way.
- (5) Major street means a street designated as a state trunk highway, a state aid road, a county aid road, an urban expressway, or an arterial city street.

(Ord. passed 7-21-99)

§ 153.03 CERTAIN CONVEYANCES PROHIBITED.

(A) No conveyance of land in which the land conveyed is described by metes and bounds or by reference to a plat made after adoption of these platting regulations, which is not approved by Council resolution, shall be made or recorded if the parcel described in the conveyance is less than five acres in area and 300 feet in width unless such parcel is a separate parcel or recorded as of January 1, 1966, or unless an agreement to convey such smaller parcel was entered into prior to such time and the instrument showing the agreement to convey was recorded in the office of the County Recorder within one year thereafter. This prohibition shall also apply to parcel or lot splits, platted or unplatted subdivisions or plats where a street abutting said parcel or lot does not have a right-of-way easement to the city of at least 60 feet in width for the entire length of the parcel or lot, unless the owner or owners agree to dedicate the necessary right-of-way so that at least 30 feet of right- of-way exists on half of the street that abuts said parcel or lot.

(B) In any case in which compliance with the foregoing provisions will involve an unnecessary hardship and failure to comply does not interfere with the purpose of the platting regulations of this chapter, the Council may waive such compliance by adoption of a resolution to that effect, and the conveyance may then be recorded. The Council may refer questions of waiving compliance to the Planning Commission for recommendation before Council action or may waive compliance without referring the question to the Planning Commission. Any owner or agent of the owner of land who conveys a lot or parcel in violation of the foregoing provision shall forfeit and pay to the city a penalty of not less than \$100 for each lot or parcel so conveyed; or, the Council may enjoin such conveyance by use of any appropriate legal remedy.

(Ord. passed 7-21-99)

§ 153.04 GRANTS OF PUBLIC STREET TO CITY.

No grant of a public street to the city by deed shall be filed without the approval of the Council by adoption of a resolution to that effect.

(Ord. passed 7-21-99)

§ 153.05 PUBLIC LAND DEDICATION

(A) *Purpose.*

(1) The preservation and development of parks, playgrounds, trails and open space areas within the city are essential to maintaining a healthy and desirable environment for residents and non-residents alike. The value and attractiveness of residential and commercial/industrial developments to land owners, developers, purchasers, employers, and employees is significantly enhanced by the presence of such parks and open space amenities.

(2) Development of land for residential, commercial, office, mixed use and industrial purposes creates a need for park and recreational land and facilities within the city. Each development within the city shall contribute toward the city's park system in proportion to the need created by the proposed subdivision or development.

(3) In accordance with M.S. § 462.358, Subd. 2b, provides that municipal subdivision regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for conservation purposes or for public use as parks, playgrounds, trails, wetlands, or open space, and that the municipality may alternatively accept an equivalent amount in cash.

(4) An essential nexus is created between the fees or dedication imposed and the city purpose sought to be achieved by the fee or dedication. The fee or dedication bears a rough proportionality to the need created by the proposed subdivision or development.

(B) *Compatibility with the comprehensive plan.* The city shall adopt a Park Improvement Program (PIP) and budget for its parks, playgrounds, trails and open space program. The PIP shall become part of the city's Capital Improvement Plan (CIP), as adopted by the City Council, and a component of the comprehensive plan.

(C) *Land dedication requirements.* At the time of subdivision, the developer shall dedicate land for public use as parks, playgrounds, recreation facilities, trails, or public open space, in an amount equal to the development's proportional share of the city park system. Any land dedicated shall be in a location and of a character consistent with and suitable for meeting the needs identified by the city's comprehensive plan. Generally, land located within flood plains or wetlands shall not be accepted to meet the proportional share of required land dedication. The city may consider accepting ownership of these lands without giving credit for park dedication. The land dedicated shall also be in addition to property dedicated for streets, alleys, easements, storm water ponding, or other public rights-of-way.

(1) Should the dedication of land prove difficult, the city may, at its option, require a developer or property owner to purchase and donate land elsewhere in the city and develop it for public use as parks, playgrounds, recreation facilities, trails, or public open space. The Park and Recreation Commission shall review and City Council must approve of the location and proposed development plan.

(2) The dedication requirements shall be set annually by the city fee schedule.

(D) *Cash requirements.*

(1) The city shall have the option of requiring cash in lieu of land dedication or conveyance. The cash amount(s) required for new residential development is based on each new unit created. The amount(s) required for new commercial, office and industrial developments shall be based on the acreage being developed. The cash-in-lieu fee for mixed-use will be based on the number of residential units created and the amount of new acreage of commercial/industrial space being created. The rates shall be set annually by the city fee schedule and be based on an essential nexus between the identified park needs and the proportional amount of burden placed on the parks and trails system by the proposed development.

(2) The amount of cash required for the development of land shall be reviewed annually as part of the fee schedule ordinance so that it reflects the anticipated effect of development on the city parks, playgrounds, trails and open space. The PIP, CIP, and comprehensive plan defines needs for the above mentioned programs in helping determine a development impact on these systems.

(3) Any cash payments received shall be placed in a special fund by the municipality used only for the purposes of acquisition, development or capital improvement of the parks, playgrounds, trails or open space based on the approved park systems plan. Cash payments cannot be used for ongoing operation or maintenance.

(4) The amount owed to the city shall be determined upon final approval of the application, and shall be specified in the authorizing resolution and/or development agreement.

(E) *Land and cash combination.* If the city determines that land is needed in the development, but in a lesser amount than the required proportional share, the Council may require payment of cash in lieu of land dedication based on a pro-rata share of the land dedication that otherwise would be required.

(F) *Fulfilling requirements.*

(1) The developer or property owner shall deed the land to be dedicated for public use and/or open space purposes to the city upon approval of the project by the City Council. The deeding of the land shall be done at no expense to the city.

(2) Cash payments shall be paid to the city prior to final approval and release of the final plat, unless otherwise specified in a development agreement. The city may withhold release of financial obligations (i.e. letters of credit, escrow, and the like) tied to a development until the cash payment(s) are received. For projects not requiring a development agreement or financial obligations, cash payments must be made prior to the city issuing project authorizing resolution(s) and/or building permit(s).

(G) *Improvement of land.*

(1) Land identified for park uses and/or public open spaces shall be suitable for park development. In the event such land use is unsuitable for immediate use because of topographic or other limitations, the developer shall grade and seed the land for such suitable uses.

(2) The developer or property owner may agree to make certain improvements to the donated land in lieu of the full land dedication or combined dedication and cash contribution. Such improvements shall be agreed to by the Park Commission and City Council and may include, but not be limited to, installation of playground or other park equipment, sport courts, trails, and the like. The agreed-to improvements shall be included in the development agreement.

(H) *Trails and sidewalks.* The developer or property owner shall be required to construct trails and sidewalks on the property to be developed in a manner determined by the city and in accordance by the city's Comprehensive Pedestrian, Bike and Trails Map. The city, at its sole discretion, may choose to collect a cash-in-lieu fee for these improvements and complete them at a time that coordinates with other public improvements.

(I) *Transfer or conveyance of property.* Prior to the dedication, the developer or property owner shall deliver to the city a title insurance policy in favor of the city. The dedicated land shall be conveyed by warranty deed. Such title shall vest in the city good and marketable title, free and clear of mortgages, liens, encumbrances, assessments or taxes. The conveyance documents shall be in a form acceptable to the city. Developer or property owner shall execute all documents necessary to convey the property and record the warranty deed.

(Ord. 742, passed 10-14-2015)

PREPARATION AND APPROVAL OF PLATS

§ 153.20 PRELIMINARY PLAT; CONTENTS.

Whenever a property owner or developer desires to subdivide land into building lots, to dedicate streets, alleys or land for public use or to reserve streets for private use, the owner or developer shall submit ten copies of a preliminary plat and plan, preferably black and white prints, to the city. The plat shall be drawn to a scale of not more than 100 feet to the inch.

(A) It need not be a final, detailed plat and plan, but shall contain the following:

(1) The location of present property and section lines, streets, buildings, water courses, wetlands and other existing features within the area to be subdivided;

(2) The proposed location and width of streets, lots, building and set back lines and easements;

(3) The title under which the proposed subdivision is to be recorded and the name of the subdivider platting the tract;

(4) The names of all adjoining subdivisions or a description of unplatted areas and the layout of their streets;

(5) Existing and proposed contour intervals of not more than two feet;

(6) North point, scale and date;

(7) The location of existing and proposed utilities within the tract or immediately adjacent thereto. The term ***UTILITIES*** shall include sanitary sewers, storm sewers, water, electricity, gases, telephone, street lights and drainage. The location and size of the nearest water main and sewer or outlet shall be indicated;

(8) Information as to whether curb and gutter, sidewalks, boulevards and boulevard trees will be installed or planted. The location and type of any such planned improvements shall be shown;

(9) Location and type of erosion and sedimentation control measures proposed along with an erosion and sedimentation control plan as required in the Erosion and Sediment Control Ordinance of the City Code set forth in Chapter 154;

(10) Results of a preliminary soils analysis prepared by a competent individual to determine building suitability, including erodibility, slope and infiltration capacity as required by the city's Local Surface Water Management Plan.

(B) Plats containing three lots or less are exempted from the provisions of this section.

(Ord. passed 7-21-99)

§ 153.21 CONSIDERATION OF PLAT APPROVAL.

(A) The preliminary plat and plan shall be filed with the City Manager. The Manager shall then review the same to ascertain if it complies with the regulations set forth in this and other chapters of the city code. At least 30 days prior to taking final action on a preliminary plat, the proposed preliminary plat must be presented by the Manager to the Commissioner of Transportation for review if the plat includes or borders on a trunk highway. Within five days after receiving a preliminary plat that includes or borders on an existing or proposed county road, the Manager must submit it to the county engineer for review. The Manager is authorized to engage such technical help as he or she deems necessary in making his or her investigation. Within two weeks from date of filing, if technical matters have been decided, the Manager shall refer said plat and plan to the Planning Commission with copies of the findings and all technical reports. The Planning Commission shall within 30 days after receiving said matter return the same to the Manager with its recommendations. The Manager shall then submit the matter to the Council with all reports and recommendations as above provided, including his or her own recommendation.

(B) The Council shall, after a study of the matter, do one of the following:

- (1) Set a date for a hearing on said matter;
- (2) Order changes as determined necessary;
- (3) Refuse to accept and approve said plat or plan.

(C) If a public hearing is ordered, it shall be held within 30 days from the date of the submission of the matter to the Council. The meeting shall be preceded by at least one week's published notice. The public hearing may be adjourned from time to time as the Council deems necessary.

(D) Following the public hearing, the Council shall approve the plat and plans in their original form, approve them subject to certain changes as outlined or refuse to approve same. If the Council decides to approve the plat and plan, such formal approval shall be granted only after the requirements in § 154.008(E)3. are fulfilled.

(Ord. passed 7-21-99)

§ 153.22 MEASUREMENT OF LOTS; LOCATION OF STREETS.

Before the approval of a plat, it shall be checked as to measurements of all lots, streets and public lands. All proposed streets on the plat or subdivision shall conform to the street plan of the city as specified in this chapter. In considering requirements for the location and width of streets, consideration may be given to the prospective character of the development, and reasonable conditions and requirements to the establishment of such streets may be required by the Council as a condition precedent to approval of the plat or subdivision.

(Ord. passed 7-21-99)

§ 153.23 FINAL PLAT TO BE PREPARED.

When the Council is prepared to approve a plat and plan, a final detailed plat on tracing cloth and four prints thereof, together with four copies of any deed restrictions when such are too lengthy to be shown on the plat or plan, and three prints of the certified plans showing the improvements as built or as they are to be built within the subdivision shall be submitted to the city.

(Ord. passed 7-21-99)

§ 153.24 DETAILED INFORMATION REGARDING IMPROVEMENTS.

When the Council is prepared to approve a plat and plan, the Council shall be furnished with full and complete plans, information and data regarding all improvements required. All surveys and plans shall be prepared in accordance with the rules and regulations of the engineer. The engineer shall approve the detailed construction specifications for improvements. The owner or developer shall furnish a detailed estimate of the cost of the improvements, based on bids or a satisfactory estimate.

(Ord. passed 7-21-99)

§ 153.25 SUBDIVIDER'S CONTRACT REQUIRED.

When the Council is prepared to approve a plat and plan, the owner or developer shall execute a subdivider's contract with the city, which contract shall specify in detail the improvements to be constructed and installed by the owner or developer. The contract will specifically outline any costs to be borne by the city or to be assessed against the property benefitted. The contract shall require completion of all improvements within two years following the date of approval of the plat by the Council.

(Ord. passed 7-21-99)

§ 153.26 PERFORMANCE BOND.

(A) When the Council is prepared to approve a plat and plan, the owner or developer shall post a surety bond running to the city in the amount of one and one-half times the estimated cost of the construction and installation of the improvements for which the owner or developer is responsible under the subdivider's contract, conditioned that the owner or subdivider shall comply with the provisions of this chapter and shall faithfully perform and complete the construction and installation of the improvements for which he or she is responsible under the subdivider's contract within the time allotted by said contract.

(B) The bond shall be approved as to form and content by the attorney and generally by the Council. Cash or a certified check in same amount as the surety bond may be substituted for the surety bond upon the same conditions.

(C) When the owner or developer proposes to complete the project in installments, and the city has not been asked to contribute to said development, the bond may, by Council approval, be for the portion of said work to be done rather than for the whole project.

(Ord. passed 7-21-99)

§ 153.27 ACTION BY DEVELOPER AFTER APPROVAL.

(A) Three copies of surveys of land subdivided by metes and bounds and one copy of registered plats shall be filed with the Manager upon approval by the Council.

(B) Land for streets shall be deeded to the city in accordance with law.

(C) All approved plats shall be filed within 30 days following approval unless an extension of time for filing is granted by the Council for good cause within the 30 day period. Unreasonable delay in the filing of any subdivision or plat after approval by the Council shall be grounds for revocation of approval. Plats shall take effect from and after the date same are filed of record with the County Recorder, not as of date approved by the Council.

(Ord. passed 7-21-99)

§ 153.28 CONSTRUCTION PROHIBITED PRIOR TO COUNCIL APPROVAL.

No opening or construction of any street shall be started until the plat has been approved by the Council. No utility, municipal service or improvement shall be constructed on any street until the street has been approved by being designated upon a plat or subdivision duly approved and accepted by the Council or previously accepted as a public street by the Council. No permit for the erection of any building shall be issued unless it shall be located upon a street or highway giving access thereto which has been duly approved and made a part of the street plan of this city and unless such building shall conform to the building line established upon the street or proposed street where it is to be located. No permit for the erection of any building shall be issued unless the building is to be located upon a full width, improved street or highway and at such an elevation that such building can be served by the city sanitary sewer system by gravity flow, unless the permission of the Council is first obtained. This provision shall be applicable to building permits to be

issued for any parcel of land, regardless of when it was platted or subdivided.

(Ord. passed 7-21-99)

§ 153.29 EXTENSION OF TIME FOR CONSTRUCTION; FAILURE TO CONSTRUCT.

(A) If the construction or installation of any improvements or facilities for which guarantee has been made by the developer in the form of bond, cash or certified check is not completed within two years from the date of approval of the plat; or whenever construction of improvements is not performed in accordance with applicable standards, specifications and sequence, the developer may request an extension of time, provided builder can show reasonable cause for inability to complete said improvements or to perform in accordance with applicable standards, specifications and sequence.

(B) The extension of time shall not exceed six months except in unusual conditions. At the end of said extension, the city will use as much of the bond, cash deposit or certified check to complete said project as may be necessary. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards, specifications and sequence. Plowing of snow and other street maintenance is not an obligation of the city until final acceptance of the entire project by the city.

(Ord. passed 7-21-99)

§ 153.30 INSTALLMENT AGREEMENT AS TO BOND.

When a cash deposit or performance bond are made pursuant to the preceding sections, the city and the subdivider may enter into a written agreement itemizing the several phases of the construction or installation in sequence with an amount opposite each phase, provided that each amount so listed may be repaid to the subdivider upon completion and approval after inspection of the particular phase of such work represented by said amount. However, 10% of the cash deposit, certified check or the performance bond shall not be released to the subdivider until all construction and installation covered by the deposit, certified check or bond as outlined in the subdivider's contract is completed, inspected, approved by engineer and accepted by the respective governmental authorities.

(Ord. passed 7-21-99)

§ 153.31 INSPECTION AND ACCEPTANCE OF CONSTRUCTION.

(A) Periodic inspections during the installation of improvements shall be made by city to insure conformity with the approved plans and specifications as contained in the subdivider's contract. The subdivider shall notify the proper administrative officials when each phase of the improvement is ready for inspection. Upon acceptable completion of installation of the required improvements, the city shall issue a letter to the subdivider or his or her agent, and such letter shall be sufficient evidence for the release by the city of the portion of the surety bond, certified check or cash deposit as designated in the subdivider's contract for the completed improvement.

(B) When the engineer, following inspection of a subdivision, certifies to the Council that all improvements have been constructed in accordance with city specification, the Council may proceed to accept the facilities for which bond has been posted.

(Ord. passed 7-21-99)

§ 153.32 BASIC STREET, ALLEY AND EASEMENT REQUIREMENTS.

(A) The arrangement of streets in new subdivisions or plats shall be so laid out as to provide a continuation of existing streets of adjoining areas or the projection of east-west or north-south streets of the city if there are no adjoining streets. The width of streets in new subdivisions shall be not less than the minimum street width established herein. Offset or irregular streets are prohibited unless the topography of the area concerned makes the construction of regular streets impossible or impractical. Minor streets or those of irregular nature should approach any major street except major diagonal streets hereinafter named at an angle of between 80 degrees and 100 degrees.

(B) Major streets are designated as follows:

- (1) Seventh Avenue from west boundary to east boundary of the city;

- (2) Margaret Street from Holloway Avenue to Nineteenth Avenue;
- (3) All county aid roads now in existence and any accepted in the future;
- (4) Any street so designated by the Council in future areas.

(C) Major streets shall be 100 feet in width, except where existing conditions make a street of less width more suitable as determined by the Council. The minimum width for other streets shall be 60 feet. The subdivider may be required to provide additional land to construct a street of adequate width.

(D) The minimum width of an alley shall be 20 feet. Where alleys are not provided, easements of not less than ten feet in width shall be provided on each side of all rear lot lines and alongside lot lines, where necessary, for any anchors, poles, wires, conduits, sewers, pipes or mains for any public utility. Easements of greater widths may be required under extraordinary conditions of topography or utility line groupings.

(Ord. passed 7-21-99)

§ 153.33 LOT SIZE.

(A) The minimum area of lots in plats or subdivisions outside of shoreland areas shall meet city requirements. The minimum width of lots outside of shoreland areas shall meet city requirements at the building line, but the Council reserves the right to waive these requirements where the same would cause unusual hardship, provided the area requirements are met.

(B) The area and dimensions of lots within shoreland areas shall be in accordance with the shoreland management ordinance of the city code.

(Ord. passed 7-21-99)

§ 153.34 SEWER AND WATER SERVICES.

The subdivider shall make adequate provision for connection to the city water and sewer services and storm water disposal. Subdivider shall provide the city with such information as may be necessary to determine the adequacy of the facilities proposed to be used for such purposes. The developer shall construct water lines, sanitary sewer lines or storm sewer lines, although connection to other lines outside the area may not be possible immediately where plans for the installation of such lines in the area have been prepared by the engineer or other competent person and construction of such a system or utility has already commenced or has been completed in other areas of the city. The Council may require that such lines be constructed outside the area being platted or subdivided where necessary in order to properly serve the area being subdivided or platted. Two or more owners, subdividers or platters may enter into contracts with the city for the improvement of several subdivisions, parcels or plats at the same time when such water, sewer or storm sewer lines would pass through and serve the several areas concerned and could reasonably be constructed in a single project.

(Ord. passed 7-21-99)

§ 153.35 MODIFICATION OF REQUIREMENTS.

Whenever the tract to be subdivided or platted is of such unusual size or shape, or is surrounded by such development of unusual conditions that the strict application of the requirements contained in this chapter would result in a substantial hardship of injustice, the Council may vary or modify such requirements so that the subdivider is allowed to develop his or her property in a reasonable manner, but in such a manner that the public welfare and interests of the city and surrounding area are protected and the general intent and spirit of this chapter is preserved.

(Ord. passed 7-21-99)

§ 153.36 APPLICABILITY.

This chapter shall not apply to plats recorded prior to May 6, 1957, or to the sale or exchange of small parcels of land to or between

adjoining property owners where such sale or exchange does not create an additional lot or space sufficient to construct an additional residence thereon.

(Ord. passed 7-21-99)

§ 153.37 REPAYMENT OF DAMAGES PRIOR TO PLAT APPROVAL.

(A) The city shall, prior to final plat approval, determine if any monies were awarded or are pending for easements across the land to be platted for public utilities, alleys or streets. Before approval of the final plat, all such monies awarded or given shall be returned to the city, at zero interest, if the monies were delivered to the then owner of the land within ten years of the date of filing the preliminary plat. If the preliminary plat was filed within 15 years of the delivery of such monies to the then owner of the land, then one-half of such monies awarded or given shall be returned to the city, at zero interest. If more than 15 years have passed, no monies need be returned.

(B) A certified copy of this chapter shall be filed against all unplatted land wherein public money is used to acquire an easement for public purposes.

(Ord. passed 7-21-99)

§ 153.38 LOT SPLITS FOR TWO FAMILY DWELLINGS.

If the following conditions are met, a lot or lots upon which a two-family, side-by-side dwelling now exists, or is to be constructed, may be split along the party wall to allow for individual ownership of each unit:

- (A) A survey shall be submitted to the city showing lot dimensions, the location of the building in relation to all lot lines and the location of the party wall in relation to all lot lines;
- (B) If split, the two lots shall be substantially equal in size and dimensions;
- (C) The two family dwelling and lot must conform to all minimum requirements of the city code and state laws;
- (D) Separate utility services must be provided;
- (E) Deed restrictions, subject to approval by the Manager, shall be recorded with the deed and shall contain at least the following provisions:
 - (1) Structure shall at all times have a uniform exterior appearance in terms of color, design and maintenance;
 - (2) In case of damage, the dwelling shall either be restored to its original condition or removed;.
 - (3) A provision for quick resolution of all disputes;
 - (4) The city shall be considered a third party beneficiary to the deed restrictions and may enforce the same;
 - (5) All breaches of the deed restrictions shall be considered nuisances, as that term is used in M.S. § 429.021, as it may be amended from time to time, and all costs incurred by the city to enforce the deed restrictions shall be assessable to the offending party or parties as provided for by state law;
- (F) Such other conditions as the Manager deems necessary to assure compatibility with surrounding structures or to assure a reasonable division of property.

(Ord. passed 7-21-99)

CHAPTER 154: ZONING REGULATIONS

Section

- 154.001 Intent and purpose
- 154.002 Introductory provisions

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§ 154.001 INTENT AND PURPOSE.

This chapter divides the city into zoning districts, establishes minimum requirements to achieve its intent and purpose, and establishes regulations which control the location, construction, reconstruction, alteration and use of structures and land. The intent and purpose of this chapter is to:

- (A) Promote and protect the public health, safety, morals, and general welfare of the city;
- (B) Promote land uses and development patterns that are consistent with the implementation of goals, policies and plans established in the city's Comprehensive Plan and officially adopted plans and overlays;
- (C) Preserve the overall quality of life for residents and visitors;
- (D) Promote the most appropriate phased and orderly growth and development of land for residential, commercial, industrial, recreational, and public areas;
- (E) Provide adequate light, air, open space and convenience of access to property;
- (F) Prevent or limit congestion in the public right-of-way;
- (G) Promote pedestrian, bicycle and transit use as well as provide for off-street parking and loading areas;
- (H) Foster a strong and balanced tax base for the economic vitality of the city;
- (I) Protect, stabilize, and enhance the value of land, buildings and structures throughout the city;
- (J) Establish a comprehensive system of sign controls governing the display, design, construction, installation and maintenance of signs and to promote the orderly and effective display of outdoor advertising;
- (K) Protect and preserve the natural environment and resources of the city including environmentally sensitive areas, wetlands and shorelands;
- (L) Protect against fire, natural hazards, flooding, contamination and other dangers;
- (M) Encourage the protection, conservation, restoration and enhancement of historic resources in the city;
- (N) Encourage energy conservation through the use of renewable and alternative energy systems;
- (O) Enhance the aesthetic desirability of the city through the design and appearance of buildings, compatible land uses, and design and development standards in relation to surrounding properties;

(P) Require developments to have adequate provisions for city water, city public sanitary sewer, and other public services;

(Q) Encourage reinvestment in the city's established residential neighborhoods while protecting their character and creating a sense of place;

(R) Maintain a variety and range of housing and commercial building options to satisfy the city's social and economic goals;

(S) Define the powers and duties of the administrative officers and bodies, as provided hereinafter; and

(T) Provide effective administration and enforcement of this chapter.

(Ord. 739, passed 8-18-2015)

§ 154.002 INTRODUCTORY PROVISIONS.

(A) *Title.* This chapter shall be known and may be cited and referred to as the "North St. Paul Zoning Ordinance;" when referred to herein, it shall be known as "this chapter."

(B) *Application.*

1. *Interpretation.* The provisions of this chapter shall be held to be the minimum requirements for the promotion and protection of the public health, safety, morals, and general welfare.

2. *Scope.* When any condition imposed by any provision of this chapter is either more restrictive or less restrictive than similar conditions imposed by any provision of any other applicable law, City Code provision, statute, resolution or regulation of any kind, the more restrictive one which imposes higher standards or requirements shall prevail. This chapter is not intended to repeal any easements, restrictions, or covenants relating to the use of land or imposed on lands within the community by private declaration or agreement.

3. *Conformity.* Except as specifically provided for herein, no structure or land shall be used for, nor shall any structure be constructed, converted, enlarged, reconstructed or altered in any manner for any purpose which is not in conformity with the provisions of this chapter. Any existing building or structure and any existing use of properties not in conformity with the regulations may be continued, extended or changed, subject to the special regulations herein provided with respect to nonconforming properties or uses.

(C) *Rules.*

1. For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word "building" shall include the word "structure" the word "lot" shall include the word "plot" and the word "shall" is mandatory and not discretionary.

2. All measured distances shall be to the nearest tenth of a foot.

3. Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be as set forth in such definition.

4. A use which is not allowed or authorized by this chapter is prohibited.

(D) *Zoning coordination.* Any zoning district classification change to land adjacent to or across a public right-of-way from an adjoining county or community shall be referred to that county/community's governing unit for review and comment prior to final action by the City Council. A period of at least ten days shall be provided for receipt of comments; such comments shall be considered as advisory only.

(E) *Zoning and the Comprehensive Plan.* The North St. Paul Comprehensive Plan establishes the goals, objectives and strategies that serve as a basis for this zoning code. All regulations or amendments adopted pursuant to this chapter shall be generally consistent with the Comprehensive Plan as adopted and revised or updated. The Comprehensive Plan will be modified and updated from time to time based on the requirements of state statutes and the rules of the Metropolitan Council. A plan amendment may be initiated by the City Council, the Planning Commission or upon application of a property owner. The process for application, review, and amendment shall be consistent with state law and with policy adopted by the city.

(F) *Repeal of conflicting ordinances.* All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this chapter, are hereby repealed to the extent necessary to give this chapter full force and effect.

(G) *Validity.* Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the chapter as a whole or any other section.

(Ord. 739, passed 8-18-2015)

§ 154.003 DEFINITIONS.

The following terms, as used in this chapter, shall have the meanings stated. All measured distances expressed in feet shall be to the nearest tenth of a foot. In the event of conflicting provisions in this chapter, the more restrictive shall apply. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUT/ABUTTING. Contiguous; having a common boundary, wall, or property line.

ACCESS. The place, means or way by which pedestrians or vehicles have ingress or egress to a property or parking area.

ACCESSORY, STRUCTURE. See 'Building or Structure, Accessory'.

ACCESSORY USE. See 'Use, Accessory'.

ADAPTIVE REUSE. Rehabilitation or renovation of existing building(s) or structures for any use(s) other than the present use(s).

ADDITION. A part added to a building either by constructing so as to form one architectural whole, or by joining, as by a passage, so that each is a necessary adjunct of the other or so that they constitute the same building.

ADULT DAY CARE. A program operating less than 24 hours per day that provides functionally impaired adults with an individualized and coordinated set of services including health services, social services, and nutritional services that are directed at maintaining or improving the participants' capabilities for self-care.

ADULT USES. Any of the activities and businesses described below constitute ***ADULT USES*** which are subject to the regulations of this chapter.

(1) ***ADULT BOOK AND MEDIA STORE.*** An establishment having a substantial portion of its stock in trade or stock on display (15% or more) consisting of books, magazines, films, videotape or other media of which are characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(2) ***ADULT THEATER.*** An enclosed building with a capacity for seating 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(3) ***ADULT MINI THEATER.***

(a) An enclosed building with a capacity for seating less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(b) Any business or building which presents motion pictures, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," for viewing on the premises, including but not limited to private booths, peep booths, viewing by means of coin operated or other mechanical devices and the viewing of excerpts of motion pictures offered for sale or rent.

(4) ***ADULT STORES.*** An enclosed building where more than 30% of the floor area devoted to display and sales of merchandise consist of materials, paraphernalia and games which are intended to be used in conjunction with or that describe "specified sexual activities" or "specified anatomical areas."

(a) ***SPECIFIED SEXUAL ACTIVITIES*** means any of the following:

1. Human genitals in the state of sexual stimulation or arousal;
2. Acts or explicit representations of acts or actual or simulated human masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation;

3. Fondling or erotic touching of human genitals, pubic region, buttock or female breast;

4. Excretory functions as part of or in connection with any activities set forth above.

(b) **SPECIFIED ANATOMICAL AREAS** are any of the following:

1. Human genitals, pubic region or pubic hair; buttock and female breast below a point immediately above the top of the areola, which are less than completely and opaquely covered; and

2. Human male genitals in a discernible turgid state, even if opaquely covered.

(5) **NUDE MODEL STUDIO.** Any place where a person who appears in a state of nudity or displays "specified anatomical area" is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(6) **SEXUAL ENCOUNTER CENTER.** A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

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

(8) **ADULT CABARET.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(a) Persons who appear seminude or in a state of nudity; or

(b) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(c) Films, motion pictures, videocassettes, slides, compact disks, computer software, digital recordings or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(9) **ADULT CONVERSATION/RAP PARLOR.** A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(10) **ADULT MASSAGE PARLOR.** A massage parlor which excludes minors by reason of age, or which provides, for any form of consideration, the rubbing, stroking, kneading, tapping, or rolling of the body, if the service provided by the massage parlor is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(11) **ADULT MOTEL.** A hotel, motel, or similar commercial establishment in which at least one of the following occurs:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than ten hours or an hourly basis; or

(c) Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten hours or an hourly basis.

(12) **ADULT SAUNA.** A sauna which excludes minors by reason of age, or which provides, for any form of consideration, a steam bath or heated bathing room used for the purpose of bathing, relaxing, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(13) **ESCORT AGENCY.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as

one of its primary business purposes for a fee, tip, or other consideration.

AFFORDABLE HOUSING. Housing for which the occupant(s) is/are paying no more than 30% of his or her income for gross housing costs, including utilities.

ALLEY. See 'Street-Alley'.

ALTERATION. Any construction or renovation to an existing structure other than repair or addition that requires a permit. Also, a change in a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit.

ALTERNATIVE ENERGY SYSTEMS.

ACCESSORY. A system designed as a secondary use to existing buildings or facilities, wherein the power generated is used primarily for on- site consumption.

ALTERNATIVE ENERGY SYSTEM. A source of energy such as geothermal, wind or solar alternative to more traditionally fossil fuels or combustible energy producers.

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, including but not limited to, photovoltaic or hot water solar systems contained within roofing materials, windows, skylights and awnings.

CLOSED LOOP GROUND SOURCE GEOTHERMAL SYSTEM. A system that circulates a heat transfer fluid, through pipes or coils buried beneath the land surface or anchored to the bottom in a body of water whereby the temperature of the surrounding earth or water is transferred to the structure at the ground surface.

GEOTHERMAL SYSTEM. A system that uses the relatively constant temperature of the stored energy of the earth or a body of water to provide heating in the winter and cooling in the summer. System components include open or closed loops of pipe, coils or plates; a fluid that absorbs and transfers heat; and a heat pump unit that processes heat for use or disperses heat for cooling; and an air distribution system. Also called a ground source heat pump system.

HEAT TRANSFER FLUID. A non-toxic and food grade fluid such as potable water, aqueous solutions of propylene glycol not to exceed 20% by weight or aqueous solutions of potassium acetate not to exceed 20% by weight.

HORIZONTAL AXIS WIND TURBINE. A wind turbine design in which the rotor shaft is parallel to the ground and the blades are perpendicular to the ground.

HORIZONTAL GEOTHERMAL SYSTEM. A closed loop ground source heat pump system where the loops or coils are installed horizontally in a trench or series of trenches no more than 20 feet below the land surface.

HUB. The center of a wind generator rotor, which holds the blades in place and attaches to the shaft.

HUB HEIGHT. The distance measured from natural grade to the center of the turbine hub.

HYDRONIC HEATING SYSTEM. A combustible energy system (not an alternative energy under this section) which uses water to move heat from where it is produced, typically via a wood fired furnace located exterior to the building being heated. Heat is distributed via water piped in an enclosed pipe system to and released into a space by a heat emitter. Also called an outdoor wood boiler.

MONOPOLE TOWER. A tower constructed of tapered tubes that fit together symmetrically and are stacked one section on top of another and bolted to a concrete foundation without support cables.

OPEN LOOP GEOTHERMAL SYSTEM. A system that uses ground water as a heat transfer fluid by drawing ground water from a well whereby the temperature of the surrounding earth or water is transferred to a heat pump and then discharging the water over land, directly into a water body or into an injection well.

PASSIVE SOLAR ENERGY SYSTEM. A system that captures solar light or heat for use without transforming it first to another form of energy or transferring that energy via a heat exchanger.

PHOTOVOLTAIC SYSTEM. A solar energy system that converts solar energy directly into electricity.

SMALL WIND TURBINE. A wind turbine of 100 kW generating capacity or less.

SOLAR ENERGY SYSTEM. A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

TOTAL HEIGHT, WIND TURBINE. The highest point above natural grade reached by a rotor tip or any other part of a wind turbine.

TOWER. A vertical structure that supports an alternative energy system.

UTILITY WIND TURBINE. A wind turbine of more than 100 kW nameplate generating capacity.

VERTICAL AXIS WIND TURBINE. A type of wind turbine where the main rotor shaft runs vertically.

VERTICAL GEOTHERMAL SYSTEM. A closed loop ground source heat pump system where the loops or coils are installed vertically in one or more borings below the land surface.

WIND ENERGY SYSTEM. An electrical generating facility that consists of a wind turbine, feeder line(s), associated controls and may include a tower.

WIND TURBINE. Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

ANIMAL BOARDING FACILITY. Any lot or premises on which dogs, cats, and/or other household pets are kept, boarded, or raised for sale or adoption. Also known as 'Animal Day Care', 'Animal Kennel', or 'Animal Shelter.'

ANIMAL OR VETERINARY HOSPITAL OR CLINIC. An establishment for the routine examination, medical, or surgical treatment and care of domestic animals, generally with overnight boarding facilities for animals in care.

APARTMENT HOUSE. Any building, or portion thereof, which is designated, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the building, and shall include buildings containing three or more flats or apartments.

APPLICANT. Any person who wishes to obtain a building permit, zoning, or subdivision approval, or a permit to allow land-distributing activities. **APPLICANT** also means that person's agents, employees, and other acting under this person's direction.

ARCADE. A continuous, covered passageway parallel and open to a street, private or public open space, or building, and typically accessible and open to the public.

ASSESSED VALUE. The value of real property as established by the county assessor.

ASSISTED LIVING FACILITY AND/OR MEMORY CARE FACILITY. A facility registered with the Minnesota Department of Health (DOH) where individualized home care aide services or home management services are provided to residents either by the management or by providers under contract with the management.

ATTIC. The unfinished space between the ceiling joists of the top story and the roof rafters.

AUTOMOBILE SERVICE STATION. Any building or premises used for the dispensing or sale of automobile fuels, lubricating oil or grease, tires, batteries or minor automobile accessories. Services offered may include the installation of tires, batteries and minor accessories; minor automobile repairs; and greasing or washing of individual automobiles.

AWNING. An architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached. (See FIGURE 1)

BALCONY. A platform area projecting from the exterior of a building, enclosed by a railing, accessible from above grade and not attached to the ground.

BASE FLOOD ELEVATION. The elevation of the "regional flood." The term "base flood elevation" is used in the flood insurance survey.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four

sides, regardless of the depth of excavation below ground level.

BED AND BREAKFAST ESTABLISHMENT. A commercial facility usually with a private residence therein, providing housing and feeding of transients.

BERM. A mound of earth with elevation generally above the surrounding area.

BLOCK. A tract of land bounded by streets, or by a combination of streets, shorelines, waterways or boundary lines of the corporate limits of the city.

BLOCK, FRONT. The distance between intersections along one side of a street. (see FIGURE 2)

BOARD OF APPEALS AND ADJUSTMENT. A board established by the city to hear and decide appeals regarding zoning and having powers set forth in M.S § 462.357 and M.S § 462.359. The Planning Commission shall serve as the Board of Appeals and Adjustment.

BOARDING HOUSE. A lodging house wherein meals are served to tenants.

BODY ART. The practice of physical body adornment using, but not limited to, tattooing and body piercing. **BODY ART** does not include practices and procedures that are performed by a licensed medical or dental professional if the procedure is within the professional's scope of practice.

BODY ART ESTABLISHMENT. A place or premise, permanent in nature and location, where body art, whether or not for profit, is performed.

BREWERY, MICRO-BREWERY, MICRO-DISTILLERY, MICRO-WINERY, or TAP ROOM. A small scaled on or off-sale liquor business, located in a building where the primary use is for restaurant, retail, or tasting room, and which specializes in producing limited quantities of wine, beer, or other alcoholic beverages.

BROWNFIELD. With certain legal exclusions and additions, the term "brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

BUFFER. The use of land, such as: topography (difference in elevation), space, fences or landscape plantings, to screen or partially screen a use of property from another use or property, and thus reduce undesirable effects such as: sight, light, noise, dust and other nuisances. (see FIGURE 3)

BUILD-TO-LINE. A line to which the front wall of a building is to be constructed. The build-to-line runs parallel to the front lot line and is established to create an even building façade line along a street. (see FIGURE 4)

BUILDABLE AREA. The space remaining on a parcel after the minimum setback, drainage provisions, ponding, compensatory storage, soils, open space and other site constraint requirements and building restriction lines of this chapter have been met.

BUILDING OR STRUCTURE. Any structure for the shelter, housing support or enclosure for persons, animals, or property of any kind which is permanently affixed to the ground. When a building is separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING OR STRUCTURE, ACCESSORY. A subordinate structure or building located on the same lot with and of nature incidental to the principle structure or building. (see FIGURE 5)

BUILDING OR STRUCTURE, CONFORMING. Designates a structure which satisfies all applicable requirements of this chapter as amended.

BUILDING OR STRUCTURE, DETACHED. A building that is not connected to another building.

BUILDING OR STRUCTURE, NON-CONFORMING. See 'Non-Conforming- Building or Structure'.

BUILDING OR STRUCTURE, PRINCIPAL. A building in which a principal use is located.

BUILDING CODE. Minnesota Rules, Chapter 1305, Minnesota Building Code.

BUILDING COVERAGE. The amount of land covered by building area, usually measured in terms of lot percentage.

BUILDING FAÇADE. Any side of a building facing a public way or space and finished accordingly.

BUILDING FACE. That portion of the exterior wall of a structure which shall lie in a vertical plane. One face shall be terminated by an exterior angle of at least 210 degrees formed by two exterior walls, each being at least 18 feet in length or a curved portion of such exterior wall which shall have a central angle of 30 degrees or more.

BUILDING FRONTAGE. The facade of a building most nearly parallel to an abutting public right-of-way which affords principal access.

BUILDING HEIGHT. The vertical distance from the average grade of a building line to: the cornice of a flat roof, the deck of a mansard roof, the uppermost point on a round or other arch-type roof or the mean distance of the highest gable on a pitched or hip roof.

BUILDING LINE. The line established by law, beyond which a building shall not extend, except as specifically provided by law. (see FIGURE 6)

BUILDING LINE, SHORELAND. A line measured across the width of a lot where the main structure is placed in accordance with setback provisions from the ordinary high-water mark.

BUILDING OFFICIAL. The municipal building code administrative authority certified under M.S. § 16B.65, Subd. 2 and 3.

BUILDING PERMIT. A permit required from the responsible governmental agency before any site work, construction, or alteration to any structures can be started.

BUILDING PLAN. A dimensioned plan drawn to scale which includes the general use and layout of each floor of a building including projections such as canopies, stacks, chimneys, and exterior equipment, if any.

BUILDING SERVICE EQUIPMENT. Refers to the plumbing, mechanical, electrical, and elevator equipment, including piping, wiring, fixtures, and other accessories, that provides sanitation, lighting, heating, ventilation, cooling, refrigeration, firefighting, and transportation facilities essential to the occupancy of the building or structure for its designated use and occupancy.

BUILT ENVIRONMENT. The sum of the parts of a community's physical surroundings formed and shaped by human activity, including: buildings, structures, landscaping, earth mounds, roads, signs, trails, and utilities.

BUSINESS. The activity of making, buying, or selling goods or providing services.

CALIPER. A tree trunk diameter measured four and one-half feet from the ground on trees more than 12 inches in diameter. On trees more than four inches and up to 12 inches in diameter, caliper is measured 12 inches from the ground. On trees four inches or less in diameter, caliper is measured six inches from the ground.

CANOPY. Any structure, movable or stationary, which is attached to, supported by and projected from the entrance of a building, designed and intended for protection from the elements or as a decorative embellishment. (see FIGURE 7)

CARPORT. An automobile shelter enclosed on not more than two sides. A carport is not a garage. (see FIGURE 8)

CELLAR. A portion of a building located partially or wholly underground and having less than three and one-half feet of its floor to ceiling height above grade. A **CELLAR** is not counted as a story for the purpose of height and setback regulations.

CEMETERY. Any non-publicly owned parcel of land designed, intended to be used, or used for the burial of deceased persons or animals. For purposes of this code, a burial lot and columbarium shall be included in the definition of cemetery.

CERTIFICATE OF OCCUPANCY. Official certification that a premises conforms to provisions of this title and other applicable ordinances and may be used or occupied. A **CERTIFICATE OF OCCUPANCY** is granted upon completion of new construction or completion of alterations or additions to existing structures.

CHANGE OF USE. Any alteration in the primary use of a lot for zoning purposes.

CHAPTER. When used without clarification means a chapter of the North St. Paul Zoning Code.

CHILD. A person who has not reached age 18.

CITY. The City of North St. Paul, Minnesota.

CITY COUNCIL. The City Council of North St. Paul, Minnesota.

CLINIC. A building designed and used for medical, osteopathic, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, with no overnight boarding.

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.

COMMON OPEN SPACE. An area of land, water or combination thereof planned for active or passive recreation which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit. **COMMON OPEN SPACE** does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required yards. The area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

COMMUNICATION STRUCTURE. A structure that is intended to support equipment used to transmit or receive telecommunications signals. Examples of such towers include monopoles and lattice steel structures.

COMMUNITY GARDEN. Any parcel of land, utilizing either individual or shared lots on private or public land. The land may produce fruit, vegetables, and/or ornamentals.

COMPENSATOR STORAGE. Excavated volume of material below the floodplain elevation required to offset floodplain fill.

COMPOST FACILITY. A structure or premises designed, intended to be used, or used for the processing, creation, and open air storage of compost for subsequent sale or distribution. Compost means the mixture of decaying organic ingredients and conditioners for use as fertilizer. A location containing pre-packaged compost or open air compost for use exclusively on the same parcel shall not be considered a compost facility.

COMPREHENSIVE PLAN. A compilation of policy statements, goals, standards, and maps, and action programs for guiding the future development of private and public property. The term includes a plan designating types of uses for the entire municipality as well as a specialized plan showing specific areas or specific types of land uses, such as residential, commercial, industrial, public or semipublic uses or any combination of such uses. A land use plan may also include the proposed densities for development.

CONDITIONAL USE. See 'Use, Conditional'.

CONSTRUCTION ACTIVITY. Disturbance to the land resulting in a change in topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography resulting in accelerated storm water runoff, leading to soil erosion and movement of sediment into receiving waters or the city municipal separate storm sewer system. Construction activity includes a land disturbance activity greater than or equal to 10,000 square feet.

CONTROL MEASURE. A practice or combination of practices to control erosion and attendant pollution.

CONVENIENCE STORE. A store which sells any one or a combination of the following: groceries, pharmaceuticals, bakery goods, dairy products, hardware, and variety store items.

CONVENTIONAL ENERGY SYSTEM. Any energy system, including supply elements, furnaces, burners, tanks, boilers, related controls and energy-distribution components, which uses any source of energy other than solar or windmills. These sources include but are not limited to gas, oil, coal, and nuclear materials.

COOPERATIVE. Real estate owned by an association, each of whose members is entitled to a proprietary lease in a unit located on the real estate by virtue of the member's ownership interest in the association.

COUNTY. Ramsey County, Minnesota.

COURT. An open, uncovered space bounded on three or more sides by exterior building walls or other enclosing devices.

CURB LEVEL. The grade elevation established by the city of the curb in front of the center of a building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent.

DAY CARE CENTER. A facility which provides one of the following services: Care of a child outside the child's own home for gain or otherwise, on a regular basis for any part of a 24-hour day; or care for adults offering a program less than 24 hours per day that provides functionally impaired adults with an individualized and coordinated set of services including health services, social

services, and nutritional services.

DAY NURSERY. A use, licensed by the state where care is provided for pay for three or more children under kindergarten age for periods of more than three but less than 24 hours per day.

DECIBEL (dBA). The usual unit for measuring the relative loudness of sound.

DECK. A structure which is either freestanding or attached to a principal or accessory structure, constructed at grade or above grade, intended or designed for use as outdoor living space and unenclosed by solid or non-solid walls or a roof. (see FIGURE 9)

DENSITY. A unit of measurement of the number of dwelling units per acre of land derived by dividing the total number of dwelling units within the particular project, development or subdivision by the total number of acres contained in such development or subdivision excluding all dedicated public streets therein.

DEPTH OF REAR YARD. The mean horizontal distance between the rear line of the building and the nearest right-of-way line of an alley, where an alley exists; otherwise a rear lot line. (see FIGURE 10)

DESIGN AND PERFORMANCE STANDARDS. Standards and controls that establish the maximum size of structures and the buildable area within which structures may be located, including height, floor area ratio, gross floor area, lot coverage and yard requirements, but excluding residential density regulation.

DESIGN REVIEW COMMISSION. An advisory committee established by the City Council to review design guidelines and standards to determine if such plans are consistent with design manuals and provisions of this chapter.

DETENTION BASIN. A facility designed to temporarily store runoff from rainfall or snow melt, releasing the stored water at a controlled rate until the basin is empty. The outlet or control structure is located at the bottom of the facility so that the basin is dry after the runoff event.

DETENTION FACILITY. A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.

DEVELOPER. A person, firm, corporation, sole proprietorship, partnership, state agency or political subdivision thereof engaged in a land disturbance activity.

DEVELOPMENT. The construction of any public improvement project, infrastructure, structure, street, or road, or the subdivision of land.

DISABILITY/HANDICAP. With respect to an individual person, a verifiable physical or mental impairment that substantially limits one or more of such person's major life activities and is expected to be long continued and of indefinite duration.

DISTRICT. A section or zone of the city for which the regulation governing the land and building uses, lot area, height of structures and similar provisions are the same under the provisions of this chapter.

DORMER. A projection build out from a sloping roof, usually housing a vertical window or ventilating louver.

DRIVE/DRIVEWAY. A permanent, durable surface designed to provide vehicular access from a street to a lot or to provide vehicular access between different parts of a lot or parking area. A drive that is internal to a parking area is not the same as an aisle.

DRIVE-IN OR SELF-SERVICE BUSINESS. A facility which accommodates automobiles and from which the occupants of the automobiles may make purchases or transact business, including the stacking spaces in which automobiles wait.

DRY CLEANING ESTABLISHMENT. A use involving the cleaning or dyeing of fabrics with the use of mechanical appliances.

DWELLING. A building or one or more portions thereof occupied or intended to be occupied exclusively for residence purposes, but not including rooms in motels, hotels, nursing homes, boarding houses, nor trailers, tents, cabins, trailer coaches, or houseboats.

DWELLING, ATTACHED. A dwelling unit which is joined to another dwelling or building at one or more sides by a party wall or walls.

DWELLING, MULTIPLE FAMILY. A residence structure designed for or occupied by three or more families, either wholly (attached) or partially (detached), with separate housekeeping and cooking facilities for each. (see FIGURE 11)

DWELLING, SINGLE-FAMILY. A residence structure that is free-standing (detached) and designed for or occupied by one

family only. (see FIGURE 12)

DWELLING, TOWNHOUSE. A residence structure that is a single-family dwelling unit constructed in a group of two or more similar single-family dwelling units, with no other unit above it or below it, with each unit extending from the foundation to the roof, with each unit having a private entrance, and designed for not more than one family.

DWELLING, TWO FAMILY. A residence structure, commonly referred to as a duplex, designed for or occupied by not more than two families, with separate housekeeping and cooking facilities for each. (see FIGURE 13)

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooling and sanitation.

DWELLING UNIT, ACCESSORY (ADU). Also known as a "granny flat," "mother-in-law apartment" or "carriage house" - is a self-contained living unit that can be located within the walls of an existing or newly constructed home, or that can be an addition to an existing home. It can also be a freestanding structure on the same lot as the main house.

EASEMENT. A grant by the owner of land to the general public or to others for a specific use of the land.

ELECTRONIC AMUSEMENT DEVICE OR GAME. A mechanical or electronic amusement device or machine which, upon the insertion of a coin, token or slug, operates or may be operated or used for a game, contest or amusement of any description and which contains no payoff in money, coins, checks or merchandise other than a free game(s) at the same machine. Said item includes pinball machines; miniature pool tables; bowling machines; shuffle-boards; electric rifle or gun games; miniature mechanical or electrical games patterned after baseball, football, basketball, hockey, soccer or similar games; electric work and test games; and electric video games of sports, words or aptitude used solely for amusement and not as gambling devices. This term does not include jukeboxes, food vending machines or children's amusement devices.

ENERGY DISSIPATION. Methods employed at pipe outlets or along pipe alignments to prevent erosion including, but not limited to: concrete aprons, riprap, collars, splashguards, and gabions.

ENGINEER. The City Engineer of the City of North St. Paul.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

EROSION. Any process that wears away the surface of the land by the action of water, wind, ice or gravity. Erosion can be accelerated by the activities of man and nature.

EROSION CONTROL. Methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

ESSENTIAL SERVICES. Overhead or underground electric, gas, steam or water distribution systems and structures for collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fiber alarm boxes, police call boxes and accessories in connection therewith but not including buildings.

EXCAVATION. The mechanical removal of earth material.

EXTERIOR STORAGE. The storage, including open storage, of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.

FAMILY. One or more persons related by blood, adoption, or marriage, including foster children and household servants, living and cooking together as a single housekeeping unit; a number of persons, but not exceeding three, living together as a single housekeeping unit though not related by blood, adoption or marriage; or a number of persons, including no more than two adults, living together as a single housekeeping unit where the minor household members are the natural, adoptive or foster children of one of the household members.

FAMILY DAY CARE. See 'Day Nursery'.

FARM FENCE. A fence as defined by M.S. § 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this chapter. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this chapter.

FEEDER LINE. Any power line that carries electrical power from one or more wind turbines or individual transformers associated

with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

FENCE. Any partition, structure, wall or gate erected as a divider, marker, barrier or enclosure and located along the boundary, within the required yard, or elsewhere on the property. Fence height shall be measured from the normal grade adjacent to the fence line.

FENESTRATION. Skylights, roof windows, vertical windows (whether fixed or moveable); opaque doors; glazed doors; glass block; and combination opaque/glazed doors.

FILL. A deposit of earth material placed by artificial means.

FINISHED LIVABLE FLOOR AREA. The floor area of all rooms which can be used for living, eating, sleeping, and recreation including bathrooms, closets and stairways serving such rooms. Measurements can be made from the exterior wall line and interior walls of qualifying rooms may be included. Finished means the area has electrical, lighting, ventilation, heating and surfacing composed of finished materials.

FLOOD. A general or temporary conditions of partial or complete inundation of normally dry land areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Ramsey County, Minnesota (all jurisdictions).

FLOOD PLAIN. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source (see "Flood").

FLOODPROOFING. A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

FLOOR AREA. The total square footage of each floor of a building measured from the exterior faces of the exterior walls.

FLOOR AREA RATIO (FAR). The numerical value obtained by dividing the total square footage of a building or buildings by the total lot or parcel area of the site. (see FIGURE 14)

FLOOR PLAN. A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

FOOD AND BEVERAGE ESTABLISHMENT. A building, structure, enclosure, or any part of a building, structure or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

FUNERAL HOME. A funeral home is defined as a business which provides a wide variety of funeral services as defined by M.S. § 149A.02, Subd. 23. A funeral home may have a maximum of one crematory retort under the following conditions:

- 1) The retort is located within the same structure as the funeral home;
- 2) The crematory retort complies with all state and federal statutes, regulations and requirements;
- 3) The crematory retort is used only for bodies for which the funeral home has prepared such body for cremation.

GABLE. The triangular upper portion of an end wall under a peaked roof.

GARAGE, PRIVATE. A detached accessory building or portion of the principal building, including a carport, which is used primarily for storing passenger vehicles, trailers or one truck of a rated capacity not in excess of one and one-half tons under the control of and used by the occupants of the principal building on the site.

GRADE, FINISHED. The finished ground level adjoining the building at all exterior walls.

GRADE (ADJACENT GROUND ELEVATION). The lowest point of elevation of the finished ground, paving, or sidewalk surface between the building and the property line or between the building and a line five feet from the building when the property line is more than five feet from the building.

GRADE, NATURAL. The grade of a site before it is modified by moving earth, adding or removing fill, or installing a berm, retaining wall or other earthwork feature. Natural grade is determined by reference to a survey, or other information as determined by the Zoning Administrator.

GRADE, PLANE. A reference plane representing the average of a finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

GREENHOUSE. A structure that is constructed primarily of glass, glass-like or translucent material which is devoted to the protection or cultivation of food or ornamental crops.

GROSS FLOOR AREA (GFA). Total gross floor area including exterior building walls of all floors of a building or structure. Also referred to as 'gross square feet,' or GSF.

GROSS LEASABLE AREA (GLA). The portion of GFA that is available for leasing to a tenant.

GROUND FLOOR/FIRST FLOOR. The lowest floor of a building having its floor to ceiling height at or above the grade.

GROUND FLOOR AREA. The lot area covered by a building or buildings measured from the exterior faces of exterior walls but excluding decks and terraces and detached garages which do not exceed 12 feet in height.

GROUND FLOOR-AREA RATIO. The numerical value obtained through dividing the gross ground floor area of a building by the net area of the lot or parcel of land on which such building is located.

GROUND COVER. Grass or other spreading plant material used to define and cover the ground surface, less than 12 inches tall.

GROUP FAMILY DAY CARE. Day care for no more than 14 children at any one time.

GROUP HOME. See 'State Licensed Residential Facility'.

HEIGHT. The vertical distance of a structure measured from the average elevation of the finished grade lying 15 feet from the structure to: the highest point of the roof or parapet, for flat roofs; or, the mid-point between the eaves and the ridge, for sloped roofs.

HISTORIC STRUCTURE (as defined in the Code of Federal Regulations 59.1) are:

- 1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district;
- 3) Individually listed on a State Historic Preservation Offices state inventory of historic places;
- 4) Individually listed on a local inventory of historic places of the City of North St. Paul under a program overseen by the City Heritage Preservation Commission.

HOLDING POND. An area designed or accepted by the City Engineer and approved by the city to retain water to control the flow of storm water.

HOME OCCUPATION. An occupation, profession, activity, or use conducted for financial gain or profits on a residential property that is clearly secondary to the residential use of the dwelling.

HOSPICE. A facility providing a caring environment for supplying the physical and emotional needs of the terminally ill.

HOSPITAL. An establishment where patients are admitted for medical, surgical, or psychiatric treatment for outpatient and/or inpatient, overnight accommodation.

HOT TUB. A tub or small pool, usually made of wood or fiberglass, in which heated water is maintained for recreational or therapeutic activities, including, but not limited to Jacuzzis, whirlpools and spas.

HOTEL. An establishment containing rooming units providing temporary lodging accommodations to the general public, with rooms having access to the outside through an interior hallway connected to the main lobby of the building, and which may provide additional services such as restaurants, meeting rooms, entertainment, and recreational facilities. A hotel shall not include any use which could be defined as a motel.

HYDRIC SOILS. Soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

HYDROPHYTIC VEGETATION. Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

IMPERVIOUS SURFACE. A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

INFILTRATION AREA. A stormwater retention method for the purpose of reducing the volume of stormwater runoff by transmitting a flow of water into the ground through the earth's surface.

INFRASTRUCTURE. The system of public works for a county, state, or municipality including, but not limited to, structures, roads, bridges, culverts, sidewalks; stormwater management facilities, conveyance systems and pipes; pump stations, sanitary sewers and interceptors, hydraulic structures, permanent erosion control and stream bank protection measures, water lines, gas lines, electrical lines and associated facilities, and phone lines and supporting facilities.

INOPERABLE MOTOR VEHICLE. A vehicle which has not been moved for three months, or does not have current license plates on it, or which cannot be safely driven without repair.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

INTERIM USE. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permits it.

L10. The sound level, expressed in dBA, which is exceeded 10% of the time for a one hour survey, as measured by test procedures approved by the Director of the Minnesota Pollution Control Agency.

L50. The sound level, expressed in dBA, which is exceeded 50% of the time for a one hour survey, as measured by test procedures approved by the Director of the Minnesota Pollution Control Agency.

LAND DISTURBING OR DEVELOPMENT ACTIVITIES. Any change of the land surface including removing vegetative cover, excavating, filling, grading, stockpiling soil, and the construction of any structure that may cause or contribute to erosion, or the movement of sediment into water bodies. The use of land for new and continuing agricultural activities shall not constitute a land disturbing activity under this chapter.

LANDLOCKED BASIN. A basin that does not have a natural outlet at or below the existing flood elevation as determined using the simplified hydrologic yield method or other acceptable hydrologic analysis method identified in the Comprehensive Surface Water Management Plan, adopted August of 2006, as amended.

LANDSCAPE PLAN. A component of a development and/or site plan on which required information is shown in order for authorized review bodies to make an informed decision to approve or deny the submission.

LANDSCAPING. An expanse of scenery including lawns, plants, trees, and other natural materials, such as rock, stone, wood chips; and decorative features, including fountains, sculptures, walks, and water features.

LAUNDROMAT. A facility where patrons wash or dry clothing or other fabrics in machines operated by the patron and/or a business that provides washing, drying and ironing for hire by an employee of the facility. Does not include dry cleaning of clothing or other fabrics onsite.

LEAST SUSCEPTIBLE WETLAND TYPE. A wetland characterized as a gravel pit, cultivated hydric soil, dredged material or fill, or material disposal site.

LOADING SPACE. That portion of a lot or plot designed to serve the purpose of loading or unloading all types of vehicles.

LODGING HOUSE. Any dwelling other than a hotel or motel where lodgings are provided for compensation for one or more persons, not to exceed eight, pursuant to previous arrangements for definite periods of time.

LOT. A designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law.

LOT AREA. The area of a horizontal plane bounded by front, rear and side lot lines, excluding any public ways.

LOT AREA PER UNIT. The number obtained by dividing the lot area by the number of dwelling units on or proposed for the property.

LOT, CONFORMING. A lot or parcel legally existing on the effective date of this chapter which meets the minimum lot width and lot area requirements of this chapter.

LOT, CORNER. A lot situated at the junction of and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees. (see FIGURE 15)

LOT COVERAGE. The amount of impervious surface on a lot.

LOT, DEPTH. The distance from the front line to the rear lot line. In the case of a lot of irregular shape, the mean depth shall be the lot depth.

LOT, DOUBLE FRONTAGE/LOT, THROUGH. A lot other than a corner lot which has a property line abutting on one street and an opposite property line abutting on another nonintersecting street. (see FIGURE 15)

LOT, FLAG. Any lot having less frontage on a public way than is typical for the block in which the lot is proposed and is configured such that a narrow access corridor extends from the point of frontage to a larger portion of the lot (the "rear lot").

LOT FRONTAGE. The length of the property line of any one premises along an abutting public right-of-way.

LOT, INTERIOR. Any lot other than a corner, through or flag lot. (see FIGURE 15)

LOT LINE. A line of record bounding a lot that divides one lot from another lot or from a public or private street or alley or any other public space.

LOT LINE, FRONT. The boundary of a lot which abuts an existing or dedicated public street. In the case of a corner lot, the front lot line shall be the shortest dimension on a public street; if the dimensions of a corner lot are equal, the front line shall be designated by the owner.

LOT LINE, REAR. That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any boundary of a lot which is not a front or rear lot line.

LOT LINE, ZERO. The reduction to zero of a side yard setback requirement permitting the placement of a structure near or adjacent to the side yard lot line; however, no portion of the structure or accessory appurtenance shall project over the lot line.

LOT, NONCONFORMING. See 'Nonconforming - Lot'.

LOT OF RECORD. A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this chapter, or approved by the city as a lot subsequent to such date, and which is occupied by or intended for occupancy by one principal use, together with any accessory buildings or the open spaces as required by this chapter and having its principal frontage on a street, or a proposed street approved by the Council.

LOT, REVERSED CORNER. A corner lot, the rear of which abuts the side of another lot.

LOT WIDTH. The maximum horizontal distance between the side lot lines of a lot measured within the first 30 feet of lot depth.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

LUMINANCE. The physical measure of brightness or light emanating from an object with respect to its size. The unit of measurement for luminance is nits, which is the total amount of light emitted from a sign divided by the surface area of the sign (candela per square meter).

MAJOR WATERSHED. One of the 87 major watershed units delineated by the map titled State of Minnesota Watershed Boundaries, 1979, produced by the Minnesota Department of Natural Resources as included in the Wetland Conservation Act Rules 8420.0549.

MANUFACTURED HOME. A structure, not affixed to or part of real estate, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it. The term "manufactured home" does not include the term "recreational vehicle."

MANUFACTURED HOME PARK. One or more contiguous parcels of land under a single management which have been designed and developed in such a manner as to provide individual manufactured home sites for two or more manufactured homes and includes any building, structures, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park as defined in M.S. § 327.

MANUFACTURED HOME SITE. An area of land within a manufactured home park that is designed and developed in such a manner as to provide a location for one manufactured home.

MANUFACTURED HOME STAND. That portion of a manufactured home site that is designed, constructed, and improved in such a manner as to provide a base upon which a manufactured home shall rest, and which also serves as a base upon which blocks or other materials are placed to assist in leveling the floor of the manufactured home and provide a temporary type of foundation.

MARQUEE. A permanent roofed structure attached to and supported by the building and projects over property.

MEMBRANE STRUCTURE. A structure lacking a permanent foundation usually consisting of an aluminum, steel or plastic frame which is covered with aluminum, steel, plastic, fabric, canvas or similar materials and is used to provide storage of vehicles, boats, recreational vehicles or other personal property. The term shall also apply to structures commonly known as carports, hoop houses, and tent garages and can be fully or partially covered but shall not apply to boat lifts and canopies which are placed in public water.

MINI-WAREHOUSE. A building or group of buildings in a controlled-access, screened, and secured compound that contains individual compartmentalized and controlled-access storage spaces of varying sizes which are leased or rented for storage purposes on an individual basis.

MINNESOTA POLLUTION CONTROL AGENCY (MPCA). The state organization responsible for the NPDES/SDS permitting system.

MODERATELY SUSCEPTIBLE WETLAND TYPE. A wetland characterized as shrub-carr, alder thicket; fresh wet meadow not dominated by reed canary grass; or shallow or deep marsh not dominated by reed canary grass, cattail, giant reed, or purple loosestrife.

MODULAR BUILDING, INDUSTRIALIZED. A building of closed construction made or assembled in manufacturing facilities off the building site, for installation, or assembly and installation, on the building site, and is constructed so that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage, destruction. This does not include "manufactured home" or "prefabricated home", which are each defined separately.

MOTEL. A building containing rooming units designed primarily for providing sleeping accommodations for transient lodgers, with rooms having a separate entrance providing direct access to the outside and with automobile parking located adjacent to or near sleeping rooms.

MUNICIPAL PARKING FACILITY. A commercial parking facility owned and operated by the city, and designed to accommodate the off street parking of motor vehicles as a capital improvement. Such parking may be located in a structured parking facility, a surface lot or a combination thereof.

MUNICIPAL SEPARATE STORM SEWER SYSTEM. As defined in City Code § 56.01.

NATURAL ENVIRONMENT LAKES. Generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

NET FLOOR AREA (NFA). Total floor area, excluding exterior building walls.

NOISE. Any activity which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property (or if a condominium or apartment house, within any adjoining apartment) above the ambient noise levels as designated by the NAC noise table at the time and place and for the duration then mentioned.

NON-CONFORMING -

LOT. A lot or parcel legally existing on the effective date of this chapter which does not meet the minimum lot width or lot area requirements of this chapter or on the effective date of a new land use regulation.

SIGN. A sign which lawfully existed at the adoption of this chapter but does not conform to its requirements.

STRUCTURE. A structure legally existing on the effective date of this chapter, or subsequent revisions, which does not comply with the most current regulations herein governing the zoning district in which such structure is located.

USE. A use of land, buildings, or structures legally existing on the effective date of this chapter or a new land use regulation, which does not comply with the regulations herein governing the zoning district in which such use is located. Any use which has been allowed as a conditional use shall not be considered non-conforming.

NON-POINT SOURCE. Nutrient and pollution sources not discharged from a single point, e.g. runoff from agricultural fields, feedlots or urban streets.

NORMAL WATER LEVEL (NWL). For a reservoir with a fixed overflow, the NWL is the lowest crest level of that overflow. For a reservoir whose outflow is controlled wholly or partly by movable gates, siphons or other means, it is the maximum level to which water may rise under normal operating conditions, exclusive of any provision for flood storage. For a closed depression wetland, it is the maximum level to which the water may rise under normal precipitation conditions exclusive of any provision for flood storage.

NURP. The Nationwide Urban Runoff Program developed by the Environmental Protection Agency to study storm water runoff from urban development.

NURSERY SCHOOL. See 'Day Nursery'.

NURSING HOME. A licensed facility or part of a licensed facility which provides nursing care to five or more persons. This does not include a facility or part of a facility which is a hospital, a hospital with approved swing beds as defined in M.S. § 144.562, clinic, doctor's office, diagnostic or treatment center, or a residential program licensed pursuant to M.S. §§ 245A.01 - 245A.16, or M.S. § 252.28 and M.S. § 144A.01 Subd. 5.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood plain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

OCCUPIED SPACE. The total area of all buildings or structures on any lot or parcel of ground projected on a horizontal plane, excluding permitted projections as allowed by this code.

OFF-GRID. An electrical system that cannot be or is not permitted to be connected to the utility's electric system or to any building or structure that is connected.

OFFICIAL ZONING MAP. A map adopted in accordance with M.S. § 462.359 and is the Official Zoning Map for the city.

ONE HUNDRED YEAR FLOODPLAIN. Lands inundated by the "Regional Flood."

OPEN SPACE. Land preserved apart from development. An open area, including passive and active recreation, unimproved land, pedestrian plazas, parks, nature areas, playgrounds and trails, but not including holding ponds.

ORDINANCE. This Zoning Ordinance, adopted as Chapter 154 of the City Code, and as subsequently amended.

ORDINARY HIGH-WATER LEVEL (OHWL). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

OUTDOOR SALES AND DISPLAY. Land devoted to the display of goods, products or merchandise for sale, rent, lease or trade where such goods are not enclosed within a building. This can also include the selling of goods or products outside.

OUTDOOR SALES EVENT. A seasonal or occasional sale held on the sidewalk or other location outside a building.

OUTDOOR SEATING. A commercial seating area for business patrons.

OUTDOOR STORAGE. Permanent storage of goods, materials, equipment, or fleet or service vehicles outside of an enclosed building.

OUTLOT. A tract of land identified by a capital letter and is land that is not part of a block.

OVERLAY DISTRICT. A zoning district that encompasses one or more primary zoning districts or portions thereof and that imposes additional requirements or relaxes one or more standards required by the primary zoning district.

OWNER. Any individual, firm, association, partnership, corporation, trust or any other legal entity having proprietary interest in the land.

PARAPET. A low protective wall along the edge of a roof, bridge, or balcony.

PARCEL. A designated lot, tract or area of land established by plat, subdivision or as otherwise permitted by law.

PARK, PUBLIC. A park operated by the City of North St. Paul, including all park buildings.

PARKING -

ACCESSIBLE PARKING SPACE. Parking spaces accessible for persons with disabilities.

ACCESSORY PARKING. Automobile parking as a subordinate use and of a nature incidental to but supportive of the principal use, building or structure. Accessory parking is characterized as a free service for employees and/or customers of the principal use, building or structure.

PARKING LOT. Any off-street area that is one-level, surfaced, open-to-the-air, and used for parking vehicles.

PARKING SPACE. A suitably surfaced and permanently maintained area, either within or outside a building, of sufficient size to store one standard automobile exclusive of any driveway or other circulation area, accessible from a street, alley, or maneuvering area.

PARKING STRUCTURE. Any structure, including multi-level parking, designed and used for temporary location of vehicles and is commonly called a parking garage or parking ramp.

PROOF OF PARKING. An area of a lot other than that area secured for yards, usable open space or landscaping which is allocated for parking but is not paved or striped.

PARKS AND RECREATION COMMISSION. The Parks and Recreation Commission of the city, except when otherwise designated.

PARTY WALL. A wall which divides two adjoining structures and in which each of the occupants of the structures has rights of enjoyment.

PATIO. A covered or uncovered, surfaced outdoor living area located at grade, adjacent to and accessible from a dwelling.

PEDESTRIAN ORIENTED DEVELOPMENT. Developments that are designed to provide a safe, comfortable environment for pedestrians. Important elements include sidewalks that are separated and buffered from vehicular traffic with limited interruption from driveways; the provision of street trees and appropriate street furniture; and buildings that visually address the street with visible entranceways and windows, and, in the case of commercial buildings, may include awnings or canopies that protect pedestrians from the weather.

PERFORMANCE STANDARD. Regulatory language stating the minimum requirement or the maximum allowable limit on the effects or characteristics of a use or structure.

PERFORMANCE-BASED DESIGN. An engineering approach to design elements of a building based on agreed upon performance goals and objectives, engineering analysis, and quantitative assessment of alternatives against the design goals and objectives, using accepted engineering tools, methodologies, and performance criteria.

PERGOLA. A building-like structure with columns supporting an elevated trellis over which vines or plants may grow.

PERSON. Any individual, firm, trustee, receiver, assignee, partnership, unincorporated society or association, limited liability

company, corporation or any other type of business or association, including respective successors or assigns.

PERVIOUS PAVEMENT OR PAVERS. Pavement or pavers that are designed and maintained to allow precipitation to infiltrate into the ground, in order to reduce the volume and velocity of stormwater runoff. Pervious pavement materials include pervious interlocking concrete paving blocks, concrete grid pavers, perforated brick pavers, and similar materials determined by the City Engineer to qualify.

PHASED DEVELOPMENT. Two or more development projects undertaken or to be undertaken by the same developer or proposer that the city determines will have effects on the same geographic area and that are or will be undertaken over a limited period of time.

PHYSICALLY HANDICAPPED. Having sight disabilities, hearing disabilities, disabilities of incoordination, disabilities of aging, or other disabilities that significantly reduce mobility, flexibility, coordination, or perceptiveness.

PLANNED UNIT DEVELOPMENT (PUD). A large area of land under unified control that is planned and developed as a whole through a single development operation or programmed series of development phases, in accord with the master plan for the purpose of encouraging design flexibility, mix of land uses, housing types, density, sustainability and creativity in land planning. The development may include streets, sidewalks, utilities, buildings, open space and other site features and improvements.

PLANNING COMMISSION. The Planning Commission of the City of North St. Paul established by the City Council to perform planning pursuant to M.S. § 462.354.

PLANTING AREA. An unpaved pervious area intended or used for the placement of a tree or other required landscaping elements.

PLAT. The drawing or map of a subdivision prepared for filing of record pursuant to M.S. § 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to M.S. § 462.358 and M.S. § 505.

PORCH. A covered entrance to a building consisting of a platform area, with open or enclosed sides, projecting from the wall of a building. (see FIGURE 16)

PORTABLE STORAGE UNIT. A non-permanent, non-habitable, self-contained structure designed for temporary placement on and subsequent removal from a parcel for the purpose of facilitating off-site storage.

POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in bacteriological and chemical quality to the requirements of the public health authority having jurisdiction.

PRACTICAL DIFFICULTIES. Used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

PRE-CUT HOME. A non-mobile housing unit in which the lumber components for the walls, floors and ceilings, roof and structured member are pre-cut at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.

PREFABRICATED HOME. A single-family or multi-family dwelling unit constructed of walls, floors, ceilings and other building components that have been separately constructed off of the building site and are then transported to the building site for assembly and installation.

PREMISES. Land together with the buildings and structures thereon.

PRODUCTION OR PROCESSING. The assembly, disassembly, fabrication, manufacture, cleaning, servicing, packaging, sorting or other handling of goods or materials, either as an intermediate input for further production or processing, or for final sale, use or consumption.

PROPERTY LINE. The legal boundaries of a parcel of property.

PUBLIC HEALTH AND GENERAL WELFARE. As defined in M.S. § 103D.011, Subd. 23 and 24.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, street, sanitary sewer, storm sewer, water system, sidewalk, pedestrian way, tree, lawn, off-street parking area, street lights, lot improvement or other facility for which the city may ultimately assume ownership, responsibility for maintenance and operation, or which may affect an improvement, for which local government responsibility is or may be established.

PUBLIC LAND. Land owned or operated by a municipality, school district, county, state or other governmental unit.

PUBLIC NOTICE. A ten days' printed notice of the time, place, and purpose of a hearing or proceeding.

PUBLIC OPEN SPACE. Open space owned by the city, county, state, school district or other special district.

PUBLIC WATERS. Waters of the state as defined in M.S. § 103G.005, Subd. 15.

PUBLIC WAY. An alley, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, lane, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk or other way in which a public entity has a proprietary right, or which is dedicated whether or not it has been improved.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

RECEIVING WATERS. All lakes, ponds, streams, marshes, reservoirs, springs, wetlands that are not part of the city's municipal separate storm sewer system.

RECREATION -

RECREATION, ACTIVE. Refers to a structured individual or team activity that requires the use of special facilities, courses, fields, or equipment. Examples of active recreation include: baseball, soccer, tennis, skateboarding, and hockey.

RECREATION, PASSIVE. Refers to recreational activities that do not require prepared facilities like sports fields or pavilions. Passive recreational activities place minimal stress on a site's resources; as a result, they can provide ecosystem service benefits and are highly compatible with natural resource protection. Examples of passive recreation include: hiking, picnicking, swimming, walking, observing and photographing nature.

RECREATION, PUBLIC. All uses that are commonly provided at parks, playgrounds, community centers and other such sites owned and operated by a unit of government for the purpose of providing recreation to the public.

RECREATIONAL DEVELOPMENT LAKES. Generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

RECREATIONAL VEHICLE. A vehicular type portable structure without permanent foundation which can be towed, hauled, or driven and primarily designed as temporary living accommodation for recreational, camping, and travel use, and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

REGIONAL FLOOD. A flood which can be expected to occur on an average frequency in the magnitude of the 1% change or 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term "base flood" used in a flood insurance study.

REGISTERED LAND SURVEY. A survey map of registered land designed to simplify a complicated metes and bounds description by designating the same as a tract or tracts of a registered land survey number.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

RELIGIOUS INSTITUTIONS. A facility where people regularly assemble for religious worship and any incidental religious education, which is maintained and controlled by a religious body organized to sustain public worship. This term does not include an elementary or secondary school, a specialty or personal instruction school, or a college. This term is also known as a place of worship.

REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

REPETITIVE LOSS. Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

RESTAURANT. An establishment that involves the preparation of food and drink, served to and consumed by patrons primarily within the building.

RETENTION. The prevention of direct discharge of storm water runoff into receiving water or conveyance networks; examples include systems that discharge through percolation, exfiltration, infiltration and evaporation processes that generally have residence times of less than three days.

RETENTION FACILITY. A permanent natural or manmade structure that provides for the storage of storm water runoff by means of a permanent pool of water.

REZONING. The process whereby the zoning classification or specific regulations applicable to a property are changed from one district to another, also referred to as "Zoning Map Amendment."

RIGHT-OF-WAY. Land acquired by reservation or dedication intended for public use and to be occupied by a street, trail, railroad, utility lines, oil or gas pipeline, water line, sanitary sewer, storm sewer or other similar uses. **RIGHT-OF-WAY** includes any "Public Ways."

ROOF (TYPES). The top covering of a building constructed to shield the area beneath from the weather.

ARCH. A curved symmetrical structure supporting the weight of a roof above.

FLAT. A roof slope with a two-foot rise over a twelve-foot run or less.

GABLED. A roof that slopes from both sides of a ridge.

GAMBREL. A double pitched roof.

HIPPED. A roof with slopes on all four sides, continuous from peak to eaves.

MANSARD. A steep, dual pitched hipped roof allowing a tall attic space; frequently used to add an upper story.

ROOF LINE. The highest point of the coping of a flat roof, the lower edge of the eave of a pitched roof, or the uppermost height of a facade or parapet in the case of an extended facade or parapet.

ROOF PITCH. The final exterior slope of a building roof typically but not exclusively expressed as a ratio of the distance, in inches, of vertical "rise" to the distance, in inches, of horizontal "run," such as 3:12, 9:12, 12:12.

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.

RUNOFF. Rainfall, snowmelt, or irrigation water flowing over the ground surface.

RWMWD. Ramsey-Washington Metro Watershed District.

SALVAGE YARD. Any place where any person who is a junk dealer or salvage dealer buys, exchanges, collects, receives, stores, accumulates, sells or otherwise transfers junk or salvaged material.

SCHOOLS, ELEMENTARY OR SECONDARY. Public or private schools which provide an educational program for one or more grades between kindergarten and grade 12 and which are commonly known as elementary schools, grade schools, middle schools, junior high schools, or high schools.

SCREENING. The use of plant materials, fences or earthen berms to partially conceal the separate land use from the surrounding land use.

SECTION (ELEVATION). A view of a building seen from one side, a flat representation of one façade. This is the most common view used to describe the external appearance of a building.

SEDIMENT. Solid mineral or organic material, that in suspension is being transported or has been moved from its original site by air, water, gravity or ice, and has been deposited at another location.

SEDIMENTATION. The process or action of depositing sediment that is determined to have been caused by erosion.

SENIOR HOUSING. A residential housing development, excluding nursing homes and exclusive of any unit occupied by a caretaker, consisting of units meeting the following requirements:

1) The units are designed for occupancy by individuals over 55 years of age or by a couple with one or both members over 55 years of age;

- 2) The property owner shall record a covenant to run with the land executed in a form approved by the city which restricts the use of the property to occupancy by senior citizens;
- 3) Developments which do not consist of townhouses shall provide a lounge or other inside community rooms equal in aggregate size to a minimum of 15 square feet for each dwelling unit.

SENIOR HOUSING WITH SERVICES. Nursing home, assisted living, and memory care for individuals 55 and older, as defined by M.S. § 144(D) and 144(G), as they may be amended from time to time.

SETBACK. The distance between a building and the property line nearest thereto. (see FIGURE 17)

FRONT. The minimum distance by which any building or structure must be separated from the front lot line.

REAR. The minimum distance by which any building or structure must be separated from the rear lot line.

SHORELAND. The minimum horizontal distance between a structure and the ordinary high water mark.

SIDE. The minimum distance by which any building or structure must be separated from the side lot line.

SEWAGE. Any water-carried domestic waste, exclusive of footing drainage and stormwater runoff, of any residence, industry, agricultural or commercial establishment, whether treated or untreated, including the liquid wastes produced by bathing, laundry, or culinary operations, and from toilets and floor drains.

SEWAGE, RAW. Sewage which has not been subjected to any treatment process.

SHOPPING CENTER. A group of commercial establishments built on a site which is planned and developed as an operating unit and typically sharing common space and services such as parking, maintenance and advertising.

SHORE IMPACT ZONE. All land between the ordinary high or water's edge and a line parallel to it at a setback of 50% of the structure setback, as detailed below.

| | Shore Impact Zone |
|-------------|-------------------|
| Silver Lake | 37.5' |
| Casey Lake | 75' |

SHORELAND. Land located within 1,000 feet from the normal high water level of a lake, pond, or flowage; and land within 300 feet of a river or stream.

SHORELAND ALTERATION. Grading or filling of shoreland areas or any alteration of the natural topography where the slope of the land is toward a public water or a watercourse leading to a public water.

SHORELAND DISTRICT. Land located within a floodplain, within 1,000 feet of the OHW of a public water or public waters wetland or within 300 feet of a stream or river.

SHRUB. A low, usually several stemmed, woody plant.

SIGN. Any written message, name, identification, description, display, illustration, pictorial presentation, number, decoration, flag, banner or other device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to an object, product, place, activity, person, institution, organization or business. A sign shall be considered as a structure or a part of a structure for the purpose of applying yard and height regulations.

SIGN (TYPES). (see FIGURE 18)

ADDRESS. A sign consisting of identification numbers only, either in written or numerical form.

ANIMATED. A sign with a progression of frames which give the illusion of motion, moving objects, moving patterns or bands of lights and shapes; or that gives the visual impression of movement.

AUXILIARY. A sign that has a purpose secondary to the use of the lot on which it is located, such as "telephone," "drive-

through," "cash machine," "air," "entrance," "exit," parking restrictions, security warnings or similar directives.

AWNING. A sign attached to, affixed to, or painted on an awning

BACKLIGHTING. An illuminated sign where the light source which illuminates the wall behind individual sign letters is hidden from view. The sign letters are opaque and appear as a silhouette against the lighted surface.

BEACON LIGHT. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BENCH. A sign attached to a bench located on the street and designed for seating while waiting at a bus stop.

BILLBOARD. An off-premises sign which consists of one or more sign faces primarily intended by the sign owner to be available for sale, lease or rental for the purpose of promoting any business or other activity which is not situated on the same property as the billboard or of promoting any product or service which is not primarily available on the same property as the billboard; and incidentally used for the display of public service messages.

BUILDING MARKER. Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

CANOPY. A sign attached to, affixed to, or painted on a canopy.

CHANGEABLE SIGNS -

MANUALLY ACTIVATED. Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered by manual means.

ELECTRONICALLY ACTIVATED. Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display surface composed of electronically illuminated or mechanically driven changeable segments. Includes the following two types:

COMPUTER-CONTROLLED VARIABLE MESSAGE ELECTRONIC SIGNS. Signs whose informational content can be changed or altered by means of computer-driven electronic impulses.

FIXED-MESSAGE ELECTRONIC SIGNS. Signs whose basic informational content has been preprogrammed to include only certain types of information projection, such as time, temperature, predictable traffic conditions, or other content subject to prior programming.

COMMERCIAL MESSAGE. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

DIRECT LIGHTING. An illuminated sign where the source of light is visible.

DIRECTIONAL. A sign which contains the name and address of a site, directional arrows and possibly the distance to the location of that site.

FLAG. Any fabric or flexible material attached to or designed to be flown from a flagpole or other similar structure.

FLASHING. Any illuminated sign which emits an intermittent or flashing light, or creates the illusion of intermittent or flashing light by means of animation which is not a "Changeable Sign."

FREESTANDING. A sign on a frame, pole, or other, support structure not attached to any building.

IDENTIFICATION. A sign containing principally the name of the individual or establishment occupying the premises, and which also may include the street address, telephone number or other information identifying the use.

ILLUMINATED. Any sign which has characters, letters, figures, designs or outlines which are either internally or externally illuminated by an artificial light source.

MARQUEE. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE ATTACHMENT. Any sign attached to, in any manner, or made a part of a marquee.

MONUMENT. A sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles.

MURAL. A work of graphic art painted on a building wall, which contains no commercial advertising or logos, and which does not serve to advertise or promote any business, product, activity, service, interest or entertainment.

NAME PLATE. Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

NONCONFORMING SIGN. See 'Non-Conforming-Sign'

OFF-PREMISE. Any sign that advertises an establishment, merchandise, service, or entertainments which is not sold produced, manufactured, or furnished at the property on which said sign is located.

ON-PREMISE. A sign whose message is related to the premises or the activity and use occurring on the premises on which the sign is located.

PORTABLE. A sign that is movable and not permanently attached to a structure or the ground. Portable signs include sandwich board signs, portable reader boards on wheels that display changeable letters, trailer signs, gas-filled balloons, and similar signs.

PROJECTING. A sign attached to and projecting out from a building face or wall, generally at right angles to the building. These signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property.

PUBLIC. Any sign defined as a traffic control sign in the Highway Traffic Regulation Act, any identification sign installed in a public park by a public authority or any other identification, regulatory or warning sign approved by the city for installation on public land.

RESIDENTIAL. Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms to all requirements of the zoning ordinance.

ROOF. A sign erected on a roof, or signs that project above the highest point of the roofline, parapet, or fascia of the building.

ROTATING. A sign or portion of a sign which in any physical part or in total turns about on an axis, rotates, revolves or is otherwise in motion, including without limitation a multi-vision sign.

TEMPORARY. A sign installed for a limited time and not constructed or intended for long-term use.

BALLOON. A sign consisting of a bag or similar device made of lightweight material supported by helium, hot, or pressurized air, which is greater than 18 inches in diameter.

BANNER. A sign made of fabric or other similar nonrigid material with no enclosing framework or electrical components that is supported or anchored on two or more edges or at all four corners.

CONSTRUCTION. A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.

PENNANT. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind. A pennant for purposes of this chapter is considered part of temporary signage.

POLITICAL. A sign which advertises or promotes a candidate for public office, a political party or an issue to be considered in a public election.

REAL ESTATE. A sign which advertises the development, sale, lease or rental of land or buildings.

STRINGER. A sign that is made of commercial or decorative pennants, flags or streamers which are attached to a string, rope or cable.

WALL. A sign mounted flat against a wall, or painted on the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of the wall.

WINDOW. A sign posted, painted, placed, or affixed to the interior or exterior of a window. Signs that face a window exposed to

public view and located within 12 inches of the window are considered a window sign.

SIGN (ELEMENTS) -

FACE. That portion of a sign upon which the message, advertisement or similar display is presented, as distinguished from the structural members.

HEIGHT. The distance measured perpendicularly from the highest point of the sign structure to the grade level of the ground directly below that point or the grade level of the center line of the nearest adjacent roadbed, whichever grade level is higher.

STRUCTURE. A structure including the supports, uprights, bracing and framework which supports or is capable of supporting a sign.

SITE. A lot or group of adjacent lots intended, designated, or approved to function as an integrated unit, that is proposed for development in accord with the provisions of this chapter and is in a single ownership or has multiple owners, all of whom execute a joint application for development.

SITE PLAN. A plan for the development of a tract of land drawn to scale, including but not limited to identifying the proposed uses; the location and dimensions of all proposed structures; public and private streets and roadways on or abutting such tract, parking areas, ground covers; total acreage of the tract, legal description, number of dwelling units, if any, and number of bedrooms for each; the gross floor area, the floor area and ground floor area of all buildings and structures; and the graphic scale to which the plan is drawn.

SLOPE. The degree of deviation of a surface from the horizontal; usually expressed in percent or degrees.

SOLAR TYPES -

SOLAR ACCESS. A view of the sun, from any point on the collector surface that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 a.m. and 3:00 p.m. standard time on any day of the year.

SOLAR COLLECTOR. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

SOLAR COLLECTOR SURFACE. Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

SOLAR DAYLIGHTING. A device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

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 DEVICE. A system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy for future utilization. Passive solar systems shall clearly be designed as a solar energy device such as a trombe wall and not merely a part of a normal structure such as a window.

SOLAR ENERGY EASEMENT. See 'Renewable Energy Easement'.

SOLAR HEAT EXCHANGER. A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

SOLAR HOT WATER SYSTEM. A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

SOLAR MOUNTING DEVICES. Devices that allow the mounting of a solar collector onto a roof surface or the ground.

SOLAR STORAGE UNIT. A component of a solar energy device that is used to store solar generated electricity or heat for later use.

SOLAR SYSTEM, ACTIVE. A solar energy system that transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, or chemical means.

SOLAR SYSTEM, GRID-INTERTIE. A photovoltaic solar system that is connected to an electric circuit served by an electric utility company.

SOLAR SYSTEM, OFF-GRID. A photovoltaic solar system in which the circuits energized by the solar system are not electrically connected in any way to electric circuits that are served by an electric utility company.

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with "one hundred year floodplain."

SPECIAL INFILL HOUSING. Quality housing which may be suitable in development or redevelopment of parcels.

STANDARD. A preferred or desired level of quantity, quality, or value.

STATE LICENSED RESIDENTIAL FACILITY. A state-licensed and mandatory residential facility occupied by persons in need of specialized treatment or protection and resident staff who live together as a single housekeeping unit, usually for a limited period of time.

STORAGE SHEDS. A structure non-permanent in nature further defined as a structure which can be dismantled quickly with a minimum amount of effort without the use of machinery.

STOREFRONT. The ground level frontage of a building in which there is located a single business directly behind the frontage. A building may have more than one storefront. The length of the storefront is measured from the outside edge of the exterior walls of the building, or if there are multiple storefronts located in a single building, from the centerline of the wall that separates the business from another business, public area, or other area not occupied by the subject business.

STORMWATER -

BEST MANAGEMENT PRACTICES (BMPs). Erosion and sediment control and water quality management practices that are effective and practical means of controlling, preventing and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies. Individual BMPs applicable to this chapter are described in the current version of the following documents:

(1) Minnesota Storm Water Manual, 2005. Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, MN 55155-4194; and

(2) Minnesota Urban Small Sites BMP Manual - Stormwater Best Management Practices for Cold Climates, 2001. Metropolitan Council Environmental Services, 230 East 5th Street, St. Paul, MN 55101.

STORMWATER DETENTION POND. Natural or created pond area that provides temporary storage of excess stormwater for the purpose of attenuating the peak rate of runoff by controlling the rate of pond discharge. Ponding areas that drain completely between storm events are dry detention ponds. Ponding areas that provide temporary storage in combination with a permanent wet pool are wet detention ponds.

STORMWATER MANAGEMENT PLAN. A plan for the permanent management and control of runoff prepared and implemented in accordance with the standards set forth in § 154.010.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A plan or document containing the requirements of § 154.010 for storm water discharge that when implemented will decrease soil erosion on a parcel of land and off-site sediment damages.

STORMWATER QUALITY POND. A created ponding area per W. W. Walker (1987) criteria that provides a permanent pool for the purpose of sediment and pollutant removal to reduce water quality impacts of urban development.

STORMWATER RETENTION POND. A natural or created ponding area that provides permanent storage of excess stormwater for the purpose of attenuating the peak volume of runoff, from which the only release of flow is by infiltration or evaporation.

STORMWATER RUNOFF. Water deposited by rain or other precipitation.

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

STORY, HALF. That portion of a building under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite

exterior walls, are not more than two feet above floor of such story.

STREET (TYPES) -

ALLEY. A thoroughfare through the middle of a block giving access to the rear of lots or buildings.

ARTERIAL. A street, the principal function of which is to provide for through traffic and which is designed to carry large volumes of traffic.

CUL-DE-SAC. A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

CUL-DE-SAC, TEMPORARY. A temporary turn around whose purpose is to allow the safe and convenient reversal of traffic, until such time that the street is extended.

EYEBROW. A local street with a partial paved circle, usually for the purpose of providing additional frontage to lots.

FRONTAGE. A public or private street intended for the collection of traffic that would otherwise directly access minor or major collectors or arterial roadways whose function is to provide access to streets of higher classification.

HIGHWAY. Any public way designated as a highway by an appropriate local, state or federal agency.

LOCAL COLLECTOR. A roadway whose primary function is to provide access to and from major collectors and local streets.

LOCAL STREET. A roadway with traffic volumes generally less than 2,500 vehicle trips per day containing one lane of traffic in each direction whose primary function is to provide access to and from property.

MAJOR COLLECTOR. A roadway that links residential and commercial uses with a balance between mobility and access and whose function is to provide traffic circulation within the city and access to and from minor and major arterials.

MINOR ARTERIAL. An interregional road containing one or two lanes in each direction with limited access and controlled intersections at other arterials and collector streets. Minor arterials convey traffic between towns, boroughs or other urban centers. Efficient movement is the primary function of a minor arterial road.

PEDESTRIAN WAY. A public or private right-of-way across a block or within a block to provide access to be used by pedestrians and others.

PRINCIPAL ARTERIAL. A limited access interregional arterial route containing two or more lanes in each direction. They are designated exclusively for unrestricted movement, have no private access and intersect only with selected arterial highways or major streets by means of interchanges engineered for free-flowing movement.

PRIVATE STREET. A street serving as vehicular access to two or more parcels of land which is not dedicated to the public and which is owned, maintained and repaired by one or more private parties.

TRAIL. A path with a surface used for travel.

STREET (ELEMENTS) -

SIDEWALK. The portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

STREET, RIGHT-OF-WAY. An area owned and maintained by government jurisdiction, for public street use.

STREET FURNITURE. Manmade objects, other than buildings, which are part of the streetscape. Examples include, but are not limited to, benches, litter containers, planting containers, sculptures, and bus shelters.

STREET PAVEMENT. The wearing or exposed asphaltic or cementitious surface materials and underlying aggregate base materials of the roadway used by vehicular traffic.

STREET WIDTH. The shortest distance between the edges of the traveled roadway if there is no curb, or between the faces of the curb with a minimum of 24 feet, subject to the City Engineer's discretion.

STREETSCAPE. The aesthetic appearance and nature of a street in a neighborhood created by elements such as architecture, graphics, and landscaping.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

STRUCTURE. See 'Building or Structure'.

SUBDIVISION. A described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than ten acres in area, for the purpose of transfer of ownership or building development or, if a new street is involved, any division of a parcel or land. The term includes resubdivision and, where appropriate to the context, relates either to the process of subdividing or to the land subdivided.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its previous condition before becoming damaged would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this chapter, "historic structure" shall be as defined in 44 CFR Part 59.1.

SUBSTATIONS. Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than 35,000 KV for interconnection with high voltage transmission lines shall be located outside of the road right of way.

SURFACE WATER. All streams, lakes ponds, marshes, wetlands, reservoirs, spring, rivers, drainage systems, waterways, watercourses, and irrigation systems whether nature or artificial, public or private.

SURFACED. A road, driveway, approach or parking lot which consists of bituminous material, concrete or other similar material.

SWIMMING POOL. Any basin or tank, above ground level or below ground level, containing an artificial body of water sufficiently deep for swimming.

TERRACE. A level plane or surfaced patio, directly adjacent to the principal building on the surface of the land or on the roof of a building.

TOXIC AND HAZARDOUS WASTE. Waste materials including, but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner which conserves the environment and protects the public health and safety.

TRAFFIC SIGHT DISTANCE. A triangular area on a corner lot of intersecting streets which limits the placement of vegetation and other material which can obstruct the view to oncoming traffic. The vertical area to be protected is from two and one-half feet above the grade of the street to seven feet above the grade of the street.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty building for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 90 consecutive days. The location of transient merchants shall be regulated by the zoning regulations.

TRANSMISSION LINE. Those electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

TRELLIS. A framework over which vines and plants may grow that is not a pergola. A freestanding trellis or a trellis attached to and supported by a building extending out from the building more than five feet shall be considered a fence.

USABLE OPEN SPACE. A required area on a lot which is graded, developed, landscaped and equipped, intended and maintained for active and/or passive recreation, available and accessible to and usable by all persons. Such area and improvements include: ground areas, terraces, balconies, decks, rooftops, outdoor swimming pools, outdoor seating areas, patio area, game area, landscaped

and grassy areas, gardens, sculpture gardens, recreational facilities, pedestrian paths and trails or similar outdoor fixtures or features, and water. Public parks or plazas within 300 feet of the site may be used to meet this requirement.

USE. The purpose or activity for which the land or building thereon is intended, designated or arranged or for which it is occupied, utilized or maintained.

USE, ACCESSORY. A use subordinate to the principal use on a lot and used for purposes customarily incidental to those of the principle use.

USE, CONDITIONAL. A use that may be allowed in a particular zoning district and compatible with the district's character only if controlled through additional standards and discretionary review that ensures the appropriateness of a particular use at a particular location in the district.

USE, CONFORMING. Designates a use which satisfies all applicable requirements of this chapter as amended.

USE, INTERIM. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

USE, NON-CONFORMING. See 'Non-Conforming-- Use'.

USE, PERMITTED. A use which of itself conforms with the requirements, regulations and performance standards of the particular zoning district in which it is located, in addition to other regulations of this chapter.

USE, PRINCIPAL. The main use of land or structures, as distinguished from a subordinate or accessory use.

USE, SEXUALLY ORIENTED. See 'Adult Use'.

USE CATEGORY. A class of similar uses grouped together for purposes of delineating the uses permitted in a zone.

UTILITIES, MUNICIPAL. City facilities such as electrical, sanitary sewer, water and storm sewer designed and constructed to City and State Board of Health standards owned and operated by the city for the public use.

VACATION. The act of relinquishing a recorded dedication or easement as in a street right-of-way, utility easement, etc.

VARIANCE. A modification or variation from the literal provisions of the chapter where it is determined that their strict enforcement would cause practical difficulties to a specific piece of property. A variance shall not be granted allowing a use prohibited in the district in which the structure, use and lot are located.

VBWD. Valley Branch Watershed District.

WALL, RETAINING. A wall not laterally supported at the top, which resists lateral soil load and other imposed loads.

WATER BASIN. An enclosed natural depression with definable banks capable of containing water that may be partly filled with public waters.

WATER BODY. All surface waters, water basins, watercourse, and wetlands as defined in this Code.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

WATERCOURSE. Any natural or improved stream, river, creek, ditch, channel, culvert, drain, gully, swale, or wash in which waters flow continuously or intermittently in a definite direction.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

WATERSHED. The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

WELLHEAD PROTECTION PLAN. A document that provides for the protection of a public water supply, submitted to the Minnesota Department of Health, is implemented by the public water supplier, and complies with: A) the wellhead protection elements

specified in the 1986 amendments to the Federal Safe Drinking Water Act, United States Code, Title 42, Chapter 6A, Subchapter XII, Part C, Section 300h-7 (1986 and as subsequently amended); and B) Minnesota Rules parts 4720.5200 to 4720.5290.

WETLAND. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, does support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. Any wetland as defined in M.S. § 103G.005, Subd. 19.

WETLAND CONSERVATION ACT (WCA). The Minnesota Wetland Conservation Act of 1991, as amended.

WHOLESALE ESTABLISHMENT. A business establishment engaged primarily in selling to retailers for resale.

WIND ENERGY-

BLADE. The extensions from the hub of a wind energy conversion system which are designed to catch the wind and turn the motor to generate electricity.

HEIGHT, TOTAL SYSTEM. The height above grade of the small wind energy system, including the generating unit and the highest vertical extension of any blades or rotors.

ROTOR. The wind energy conversion system blades and the hub to which they are attached.

ROTOR DIAMETER. The diameter of the circle described by the moving rotor blades.

SHADOW/FLICKER. The shadows cast from wind energy conversion system which generally occurs in close proximity to the wind energy conversion system, although this will vary depending on the time of year, latitude, and turbine height. Flicker effects can occur when the sun shines through the rotor blades at certain times of day and results in the temporary blocking of the sun's rays with each pass of a rotor blade.

SMALL WIND ENERGY CONVERSION SYSTEM, HORIZONTAL AXIS. A small wind energy system that has blades which rotate through a horizontal plane.

SMALL WIND ENERGY CONVERSION SYSTEM, VERTICAL AXIS. A small wind energy system that has blades which rotate through a vertical plane.

SMALL WIND ENERGY SYSTEM, BUILDING-MOUNTED. A small wind energy system which requires support by a building, and does not connect directly to the ground. A building mounted system is not a minor projection, as defined in Section 29.402.

SMALL WIND ENERGY SYSTEM, COLLOCATED. A small wind energy system that is mounted on a tower or pole structure which serves another primary purpose, such as a parking lot light or flagpole.

WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and metrological towers, which operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

WIND ENERGY CONVERSION SYSTEM, COMMERCIAL. A wind energy conversion system greater than 40 kW in total name plate generating capacity and designed or operated to provide energy principally to consumers located off the premises and does not meet the requirements established for a non-commercial wind energy conversion system.

WIND ENERGY CONVERSION SYSTEM, FREESTANDING. A wind energy conversion system other than roof-mounted.

WIND ENERGY CONVERSION SYSTEM, NON-COMMERCIAL. A wind energy conversion system consisting of a wind turbine and associated control or conversion electronics used primarily to reduce on-site consumption of utility power. A non-commercial wind energy conversion system shall not exceed a rated capacity of 40 kW in total name plate generating capacity.

WIND ENERGY SYSTEM (WES). An aggregation of parts including the foundation, base, tower, generator, rotor, blades and supports in such configuration as necessary to convert the power of wind into electrical energy primarily for on-site use (e.g., wind charger, windmill or wind turbine).

WIND ENERGY SYSTEM, INTERCONNECTED. A wind energy system which produces electric power and is capable of connecting with the utility's electric system or is otherwise capable of distributing surplus electricity to the public or other properties outside the control of the wind energy system's owner, even if the system is temporarily or automatically disconnected by a switch or other mechanical device.

WIND ENERGY SYSTEM, NON-ELECTRIC. A wind energy system which converts the power of the wind into a mechanical energy, which is not electrical, and may otherwise be of a decorative, ornamental or historical nature.

WIND TURBINE. A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

WIND TURBINE GENERATOR. The component of a WES that transforms mechanical energy from the wind into electrical energy.

YARD. A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted by this chapter. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

YARD, CORNER SIDE. A yard located immediately adjacent to and extending along the corner side lot line between the front yard and the rear lot line.

YARD, FRONT. That portion of the yard extending along the full width of the front lot line between side lot lines and extending from the abutting

street right-of-way line to the depth required in the setback regulations for the zoning district in which such lot is located.

YARD, INTERIOR SIDE. A yard located immediately adjacent to and extending along another zoning lot or an alley between the front yard and the rear lot line.

YARD, LANDSCAPED. A front, side or rear yard that is required to be landscaped, as specified in this zoning ordinance.

YARD, REAR. That portion of the yard on the same lot with the principal building located between the rear line of the principal building and the rear lot line and extending the full width of the lot. (see FIGURE 10)

YARD, SIDE. That portion of the yard extending along the side lot line between the front yard and the rear yard to the depth or width required by the setback requirements of the zoning district in which such lot is located.

ZONING. A map-based system for guiding land-use development by dividing a city into land-use zones. An associated zoning code specifies the types of acceptable land uses, setbacks, lot sizes, and other restrictions for each zoning classifications and affects what an individual may legally do to develop and use parcels therein. It is the method by which jurisdictions control the manner in which areas develop.

ZONING ADMINISTRATOR. The duly appointed person charged with enforcement of this chapter.

ZONING DISTRICT. A mapped area or areas as defined by this chapter within which the regulations and requirements governing the use of property are uniform.

ZONING ORDINANCE. See 'Ordinance'.

ZERO LOT LINE. See 'Lot Line, Zero'.

(Ord. 739, passed 8-18-2015; Am. Ord. 750, passed 3-15-2016; Am. Ord. 753, passed 7-19-2016)

§ 154.004 ADMINISTRATION.

(A) *Enforcing Officer.* The office of the Zoning Administrator is established, for which the City Council may appoint such employee or employees of the city as it may deem proper. It shall be the duty of the Zoning Administrator to enforce this chapter and shall:

1. Maintain permanent and current records of this chapter including, but not limited to, maps, amendments, variances and conditional uses;
2. Institute in the name of the city, any appropriate action or proceeding against a violator; and
3. Serve as an ex-officio non-voting member of the Planning Commission.

(B) *Advisory bodies.* The Planning Commission, Design and Historical Review Commission, Parks and Recreation Commission,

and Board of Appeals and Adjustments, as established and empowered in Chapter 32 of this City Code, shall serve as advisory bodies to review and provide recommendations, as called forth in this section.

(C) *Requirements for all zoning applications.*

1. *Eligible applicant.* Unless otherwise specified, any person, firm, corporation, organization, or unit of government that has an interest in the subject property or application. The property owner must be an applicant or co-applicant to all zoning applications. Eligible applicants may apply for any zoning application, as outlined in this section.

2. *Procedure.*

a. All zoning applications subject to the requirements of M.S. § 15.99 shall be reviewed by the city according to the process required therein.

b. All zoning applications outlined in this section shall follow procedures necessary, as indicated on Table 1.

c. *Pre-application meeting.* Before an application is filed, the applicant is strongly encouraged to attend a pre-application meeting with the Community Development Department. The purpose of the pre-application meeting is to discuss, in general, the procedures and requirements for an application.

d. *Application submittal.* The applicant shall complete the appropriate zoning application and pay associated fee, as provided by the Zoning Administrator. The applicant shall pay all costs incurred by the city for legal services, engineering services, and services of other persons or entities employed by the city for, or in any way involved in, the review of an application. The applicant shall submit an escrow to the city as established by City Council at the time of application. Under no condition shall the fee be refunded or waived for failure of the city to approve the application.

e. *Completeness review.* These procedures apply to any application unless a different procedure is established for the application elsewhere in this chapter.

f. No application is complete unless all of the required information is included and all application fees have been paid.

g. The Zoning Administrator may establish a schedule for filing an application that requires action by a board, commission or City Council. Completed applications shall be filed according to any posted schedule of the Zoning Administrator.

h. *Public notice.* The notice shall include the time, place and purpose of the hearing. The type of notice required for certain applications is established below:

i. *Legal newspaper.* Notice of said hearing shall be published in the official newspaper at least ten days prior to the hearing.

ii. *Property owners.* The City Clerk shall notify all property owners within the affected zone and within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.

i. *Additional commission review.* If necessary, additional City Commission(s) shall hold a meeting to review the proposal. The Commission(s) shall make a report to the City Council recommending approval, denial or approval with conditions. See § 154.004(A).

j. *Planning Commission.* A public hearing shall be held by the Planning Commission who shall make its report to the City Council following the hearing recommending approval, denial or approval with conditions.

k. *City Council Action.* The City Council shall take action on the application referral by the Planning Commission, M.S. § 462.357.

l. *Notification.* Following City Council action, the applicant shall be notified of the action taken.

m. *Reapplication.* No application shall be resubmitted for a period of one year from the date of an order of denial unless the new application has been modified to eliminate the objections to the requested basis for denial or a change in circumstances warrants it.

3. *Submittal requirements.* Submittal requirements for all zoning applications are listed in Table 2.

(D) *Zoning text and map amendments.*

1. *Purpose.* Zoning text and map amendments are procedures that amend the written provisions of the ordinances contained within this chapter and the zoning district boundaries. Amendments shall not be made indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan, policies, plans or changes in

conditions within the city. The amendments are defined as:

(a) Text amendment. Amendments to the text of this chapter.

(b) Map amendment. An amendment to the zoning map that changes the district classification of an area or property.

2. *Standards.* The city may grant a zoning text or map amendment if the proposed amendment is compliant with the following findings:

(a) The proposed amendment is consistent with the general purposes and intent of the Comprehensive Plan;

(b) The proposed amendment will not adversely affect the health, safety, or general welfare of the city;

(c) The proposed amendment is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;

(d) The proposed amendment is compatible with adjacent properties;

(e) The proposed amendment can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems; and

(f) If applicable, the proposed amendment is consistent with officially adopted city plans and overlays.

(E) *Variances.*

1. *Purpose.* A variance to the Zoning Code may be granted to allow a modification or variation from the literal provisions of the chapter where it is determined that their strict enforcement would cause practical difficulties to a specific piece of property.

2. *Standards.*

(a) The city may grant a variance if the proposed request is compliant with the following findings: The variance is in harmony and consistent with the general purposes and intent of the Comprehensive Plan and this chapter;

(b) The variance will not adversely affect the health, safety, or general welfare of the city;

(c) The variance is necessary due to special conditions applying to the structures or land in question that are particular to the property and do not apply generally to other land or structures in the district or vicinity in which the land is located;

(d) The variance requested is the minimum variance necessary to alleviate the practical difficulty;

(e) Practical difficulties are caused from the strict application of the Zoning Code as outlined below:

i. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Code;

ii. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

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

iv. Economic considerations alone do not constitute practical difficulties.

v. The variance is consistent with officially adopted city plans and overlays.

3. *Use variance.* The Board of Appeals and Adjustment may not permit, as a variance, any use that is not allowed under the Zoning Code for property in the zone where the affected person's land is located.

4. Variances may be granted for solar energy access, earth-sheltered construction, and temporary use of a one-family dwelling as a two-family dwelling.

5. *Conditions.* In permitting a variance, the City Council may impose, in addition to the requirements set forth in this chapter, conditions considered necessary to protect the public health, safety, and general welfare and which are directly related to and bear a rough proportionality to the impact created by the variance.

6. *Denial.* A variance may be denied by the City Council, such motion and action shall constitute a finding and determination that the conditions required for approval do not exist. Procedure as outlined in M.S. § 15.99 shall be followed.

7. *Modification of variance.* Any change which is not specifically permitted by the issued variance shall require an amendment. A request for an amendment shall be administered in the same manner and all procedures shall apply as if a new variance were being

requested.

8. *Expiration.*

- (a) A variance approved by the city shall expire one year after it has been issued unless:
 - i. The City Council has set some other time limitation.
 - ii. It has been made use of by the applicant or property owner within the one year timeframe.

(F) *Conditional use permits.*

1. *Purpose.* A conditional use permit may be issued for a use that may be allowed in a particular zoning district and compatible with the district's character only if controlled through additional standards and discretionary review that ensures the appropriateness of a particular use at a particular location in the district. Certain uses may have beneficial effects and serve important public interests. These uses are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public urban services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

2. *Standards.* The City Council may grant a conditional use permit after considering the recommendation of the Planning Commission and if the use at the proposed location is compliant with the following findings:

- i. The use is consistent with the general purposes and intent of the Comprehensive Plan;
- ii. The use will not adversely affect the health, safety, or general welfare of the city;
- iii. The use is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;
- iv. The use or appearance of the use is compatible with adjacent properties;
- v. The use can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems;
- vi. The use will not create an excessive burden on existing parks, schools, and other public facilities which serve or are proposed to serve the area;
- vii. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned land;
- viii. The use is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposed use;
- ix. The use will not create an intrusion of excessive noise, glare, or general unsightliness; and
- x. If applicable, the proposed use is consistent with officially adopted city plans and overlays.

3. *Conditions.* In permitting a new conditional use, the City Council may impose, in addition to the requirements set forth in the chapter, conditions considered necessary or appropriate to protect the public health, safety and general welfare of the city.

4. *Modification of conditional use permit.* Any change which involves structural alteration, enlargement, or intensification of the use or any similar change not specifically permitted by the issued permit shall require an amendment to the conditional use permit. A request for an amendment shall be administered in the same manner and all procedures shall apply as if a new permit were being requested.

5. *Review.* The Zoning Administrator shall maintain a record for all conditional use permits issued, including information on the use, location, conditions imposed, if any, by the city, time limits, review dates and such other information as may be appropriate. The Zoning Administrator shall review each conditional use permit to determine if the development is in conformance compliance with the terms of such permit and any conditions designated on an annual basis.

6. *Duration.* A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section prohibits the city from enacting or amending official controls to change the status of conditional uses.

7. *Automatic conditional use status.* Over time, the zoning regulations applicable to a specific site may change. This may be a

result of changes to the content of the zoning regulations for a specific zone or from a change to the zoning map, including annexation and rezonings. After one of these changes, if an existing use was allowed by right or was a nonconforming use, and is now listed as a conditional use, the use is considered an approved conditional use and may continue to operate. Any changes to the use are subject to the conditional use permit process and the appropriate approval criteria.

8. *Violation.* In the event the applicant violates any of the conditions set forth in the permit, the Council shall have the authority to revoke said permit.

(G) *Interim use permit.*

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

i. To allow a use for a limited period of time that reasonably utilizes the property in the manner not permitted in the applicable zoning district;

ii. To allow a use that is presently acceptable, but not permitted within the zoning district and, with anticipated development, may not be acceptable in the future.

iii. To allow for a use that is not otherwise identified as a permitted, accessory, or conditional use, but may be appropriate in a particular district, is closely related to another permitted or conditional use, and/or the Zoning Administrator determines the use to be appropriate.

2. *Standards.* The City Council may grant an interim use permit if the use at the proposed location is compliant with the following:

i. The use is consistent with the general purposes and intent of the Comprehensive Plan;

ii. The use will not adversely affect the health, safety, or general welfare of the city;

iii. The use is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;

iv. The use or appearance of the use is compatible with adjacent properties;

v. The use can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems;

vi. The use will not create an excessive burden on existing parks, schools, and other public facilities which serve or are proposed to serve the area;

vii. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned land;

viii. The use is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposed use;

ix. The use will not create an intrusion of excessive noise, glare, or general unsightliness;

x. Will not impose, by agreement, additional costs on the public;

xi. Will terminate upon a tangible date or event specified in the resolution approving said interim use permit; and

xii. If applicable, the proposed use is consistent with officially adopted city plans and overlays.

3. *Conditions.* In permitting an interim use permit, the City Council may impose, in addition to the requirements set forth in the chapter, conditions considered necessary or appropriate to protect the public health, safety, morals and general welfare of the city and are deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit.

4. *Modification of an interim use permit.* Any change which involves structural alteration, enlargement, or intensification of use or any similar change not specifically permitted by the issued permit shall require an amendment to the interim use permit. A request for an amendment shall be administered in the same manner and all procedures shall apply as if a new permit were being requested.

5. *Expiration.* An interim use permit shall expire consistent with conditions in statute.

(H) *Site Plan Review.*

1. *Purpose.* A procedure required for any expansion of 1,000 square feet or more or any new commercial, industrial, institutional, and multi-family development projects and to provide regulations pertaining to the enforcement of site design standards. The site plan review process is intended to, allow applicants to work in cooperation with the Commissions and City Council to arrive at a design which protects the integrity of each unique zoning district and is harmonious with the desired character of the city while maintaining and improving the city's tax base, preserving and enhancing the built environment, promoting the orderly and safe flow of traffic, ensuring compatibility with adjacent developments, proper orderly development, and compliance with this chapter.

2. *Standards.* The city may grant a site plan approval if the proposal is compliant with the following:

- (a) The proposal is consistent with the general purposes and intent of the Comprehensive Plan;
- (b) The proposal will not adversely affect the health, safety, or general welfare of the city;
- (c) The proposal is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city;
- (d) The proposal or appearance of the proposal is compatible with adjacent properties;
- (e) The proposal can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems;
- (f) The proposal will not create an excessive burden on existing parks, schools, and other public facilities which serve or are proposed to serve the area;
- (g) The proposal will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned land;
- (h) The proposal is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposal; and
- (i) If applicable, the proposal is consistent with officially adopted city plans and overlays.

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

- (a) Lighting location and fixture type;
- (b) Location, height, and style of fences and walls;
- (c) Location of trash enclosures;
- (d) Location and size of building signs and monument signs;
- (e) Location and construction of on-site sidewalks, except on city right-of-way;
- (f) Location, type, and size of plantings, provided the modification would have the same effective cover and screening;
- (g) Location and construction of accessory buildings of less than 1,000 square feet;
- (h) Minor relocation or addition of driveways or parking spaces.

4. *Site plan amendment.* Any modification deemed not to be minor shall be required to complete a site plan amendment. A site plan amendment is subject to all conditions and approvals required for a new site plan review.

5. *Expiration.* Unless otherwise specified, the approved site plan shall become null and void within one year of the date of approval unless the property owner or applicant received a building permit and commenced construction of improvements on-site. Extension requests shall be submitted in writing at least 30 days prior to expiration of the site plan and shall state facts showing a good faith effort to complete work permitted under the original approval.

6. *Financial guarantee.* The city may require a performance bond or escrow in an amount equal to 100% of the estimated cost to complete the public or private site and landscape plan improvements, exclusive of structures, to be filed with the city.

(I) *Design review.*

1. *Purpose.* The design review process is intended to ensure the implementation and vision of the Comprehensive Plan, Architectural Control and Building Materials section of this chapter and the Downtown Design Manual for properties located in the MU-1 Downtown Mixed Use District. Design review is intended to assist in offering solutions which are flexible, allowing applicants to work in cooperation with the Design and Historical Review Commission to arrive at a design which protects the integrity of the MU-1 Downtown Mixed Use District and is harmonious with the desired character of the Downtown. A design review approval shall be required as a condition to issuance of a building permit for new building construction, projects in which the building design or materials of more than 25% of any single exterior building wall or roof surface is altered, projects which alter the height of an existing building by more than two feet up or down, or projects which alter the lot coverage of an existing building by more than 10%.

2. *Standards.* The city may grant a design review approval if the proposal is compliant with the following:

- (a) The proposal is consistent with the general purposes and intent of the Comprehensive Plan;
- (b) The proposal will not adversely affect the health, safety, or general welfare of the city;
- (c) The proposal or appearance of the proposal is compatible with adjacent properties;
- (d) The proposal is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposal; and
- (e) If applicable, the proposal is consistent with officially adopted city plans and overlays.

3. *Minor modifications.* In the case of minor modifications of the design review, the Zoning Administrator may give approval if the decision does not modify the overall theme of the development, affect public safety, or result in the reduction of any minimum standard as provided in the Zoning Code. Nothing contained herein shall be construed to allow the Zoning Administrator to vary the provisions of any statute, ordinance, city policy, or previous directives of the City Council. The Zoning Administrator shall have the discretion to refer any minor modification requests to the Design Review Commission and City Council for their review and approval. Minor modifications may include, but are not limited to, the following:

- (a) Minor exterior alterations to existing building, but which do not require separate zoning permits.
- (b) Maintenance of existing buildings requiring a building permit and replacement of materials consistent with the Downtown Design Manual.

4. *Design review amendment.* Any modification deemed not to be minor shall be required to complete a design review amendment. A design review amendment is subject to all conditions and approvals required for a new design review.

5. *Expiration.* Unless otherwise specified, the approved design review shall become null and void within one year of the date of approval unless the property owner or applicant received a building permit and commenced construction of improvements on-site. Extension requests shall be submitted in writing at least 30 days prior to expiration of the site plan and shall state facts showing a good faith effort to complete work permitted under the original approval.

6. *Financial guarantee.* The city may require a performance bond or escrow in an amount equal to 100% of the estimated cost to complete the site and landscape plan improvements, exclusive of structures, to be filed with the city.

(Ord. 739, passed 8-18-2015)

§ 154.005 ZONING DISTRICTS AND PROVISIONS.

The zoning districts are designed to assist in carrying out the intent and purpose of the Comprehensive Plan which is to protect the public health, safety, convenience, and general welfare.

(A) *Zoning districts.* For the purpose of this chapter, the city is divided into the following districts:

| Zoning District Table | | |
|-----------------------|---------------|--------------------------|
| District Abbreviation | District Name | Primary District Purpose |
| | | |

| | | |
|------------------------------|-----------------------------|---|
| <i>Residential Districts</i> | | |
| <i>R-1</i> | Single Family Residential | Low Density Residential |
| <i>R-2</i> | Mixed Residential | Medium Density Residential |
| <i>R-3</i> | Multiple Family Residential | High Density Residential |
| <i>Mixed-Use Districts</i> | | |
| <i>MU-1</i> | Downtown Mixed-Use | Small-scale mixed-use |
| <i>MU-2</i> | Transitional Mixed-Use | Medium-scale mixed-use |
| <i>MU-3</i> | Corridor Mixed-Use | Higher intensity mixed-use and smaller-scale industrial |
| <i>Overlay Districts</i> | | |
| <i>D-1</i> | Downtown District Overlay | Dense residential on edges, compressed downtown core |
| <i>S-1</i> | Shoreland Overlay | Protect the quality of surface waters |
| <i>Special Districts</i> | | |
| <i>LID</i> | Low-Impact Development | Conservations, open space, sustainability |
| <i>PUD</i> | Planned Unit Development | Integrated, coordinated development |
| <i>Floodplain Districts</i> | | |
| <i>F-1</i> | Floodway District | Provides additional floodplain regulations |
| <i>F-2</i> | Flood Fringe District | Provides additional floodplain regulations |
| <i>F-3</i> | General Floodplain District | Provides additional floodplain regulations |
| <i>F-4</i> | Flood Storage District | Provides additional floodplain regulations |

(B) *Zoning map.* The location and boundaries of the districts within the city are set forth on the official zoning map, titled "North St. Paul Official Zoning Map." The map and all notations, references and data shown are incorporated by reference into this chapter. It shall be the responsibility of the Zoning Administrator to maintain said map, and amendments shall be recorded on said map within 30 days after official publication of amendments. The Official Zoning Map shall be kept on file in the City Hall.

(C) *District boundaries.*

1. District boundary lines as indicated on the zoning map follow lot lines, the center line of streets or alleys, the center lines of streets or alleys projected and the center of water courses or the corporate limit lines. If district boundary lines do not follow any of the above described lines, the district boundary lines are established as drawn on the zoning map. Where a district boundary line divides a lot of record in two or more districts, any portion of such lot within 50 feet on either side of such a dividing district boundary line may be used for any use of either use district; provided however, if any portion such lot shall extend beyond the 50 foot limitation, the district line as shown shall prevail.

2. Appeals from the Zoning Administrator's determination and questions concerning the exact district boundary lines shall be

heard by the Planning Commission and a recommendation made to the City Council.

3. Whenever any street, alley or other public way is vacated by official action of the city, the zoning district abutting the center line of said alley or public way shall not be affected by such proceeding.

(Ord. 739, passed 8-18-2015)

§ 154.006 RESIDENTIAL ZONES.

(A) *Purpose.* Residential districts are established to create vibrant neighborhoods that provide for a range of housing types, promote quality housing design and rehabilitation, and a superior living environment. These districts are also intended to:

1. Ensure that new buildings and additions to existing buildings are designed with sensitivity to their context in terms of building placement, architectural materials, height, proportions, garage and driveway placement, landscaping, and similar design features.
2. Maintain and improve the viability of existing housing of all types, promote reinvestment in existing neighborhoods, and protect property values.
3. Maintain or increase compatibility between residential and other allowed uses, and between different housing types, where permitted, by maintaining consistent building orientation, parking placement and screening.
4. Facilitate preservation, development or redevelopment consistent with the adopted goals, objectives, policies and recommendations of the Comprehensive Plan and of adopted neighborhood, corridor or special area plans.
5. Foster community through attractive streets and public spaces that create opportunities for encounters and gatherings.

(B) *Submittal of plans.* In order to review proposals for compliance to this chapter, the following plans must be submitted to the city site plan, landscape plan, building plan, and for certain uses, a site analysis plan.

(C) *Use, lot and design requirements.* (see FIGURE 19)

1. *Permitted, conditional and interim uses.* See Table 3 for a list of allowed uses within the residential districts. Other uses may be allowed by the Community Development Department if they are determined to be of similar scale and impact.
2. *Accessory uses and structures.* See Table 3 for a list of allowed accessory uses and structures within the residential districts.
3. *Lot requirements.* See Table 4 for a list of lot requirements within the residential districts.
4. *Design requirements.* See Table 5 for a list of design requirements within the residential districts.

(D) *Single Family Residential District (R-1).*

1. *Purpose.* This district is established to allow, preserve and protect areas of lower-density residential and development consistent with the Comprehensive Plan.

(E) *Mixed Residential District (R-2).*

1. *Purpose.* This district is established to maintain or increase compatibility of the essential characteristics of varying residential housing types and development consistent with the Comprehensive Plan.

(F) *Multiple Family Residential District (R-3).*

1. *Purpose.* This district is established to stabilize, protect, and encourage the essential characteristics of higher density residential and development consistent with the Comprehensive Plan.

(Ord. 739, passed 8-18-2015; Am. Ord. 748, passed 1-19-2016)

§ 154.007 MIXED-USE DISTRICTS.

(A) *Purpose.* Mixed-use districts are established to create a vibrant urban environment that brings compatible land uses, public amenities and utilities together at various scales. These districts provide a range of district types, from the Downtown Core District to

the Corridor Highway District, while fostering high-quality building and site design, enhanced pedestrian, bicycle, transit and automobile circulation and a sense of community. These districts are also intended to:

1. Encourage a diversification of uses, including residential, commercial, and civic uses, in order to enhance the vitality and appeal of these areas.
2. Facilitate preservation, development or redevelopment consistent with the adopted goals, objectives, policies and recommendations of the Comprehensive Plan and of adopted neighborhood, corridor or special area plans.
3. Encourage the development of mixed-use buildings including vertical and horizontal configurations while maintaining and improving the quality of the natural landscape.
4. Encourage appropriate transitions between lower and higher density uses within the district.
5. Encourage a pedestrian-friendly environment, bicycle and transit use as a means of accessing and moving through the district and surrounding areas.

(B) *Submittal of plans.* In order to review proposals for compliance to this chapter, the following plans must be submitted to the city: site plan, landscape plan, building plan and, for certain uses, a site analysis plan.

(C) *Use, lot and design requirements.*

1. *Permitted, conditional and interim uses.* See Table 6 for a complete list of allowed uses within the mixed-use districts. Other uses may be allowed by the Community Development Department if they are determined to be of similar scale and impact.
2. *Accessory uses and structures.* See Table 6 for a complete list of allowed accessory uses and structures within the mixed-use districts.
3. *Lot requirements.* See Table 7 for a complete list of lot requirements within the mixed-use districts. Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the requirements. The applicant or owner shall supply data necessary to demonstrate such conformance.

(D) *Downtown Mixed-Use District (MU-1).*

1. *Purpose.* This district is established to sustain and enhance the viability of the Downtown in terms of preserving its small-town and pedestrian-friendly atmosphere while encouraging development and redevelopment consistent with the Comprehensive Plan to create a destination. The district is also intended to:

- (a) Preserve and enhance the historical character of the Downtown where appropriate with historic renovations and adaptive reuse of structures.
- (b) Encourage creating a sense of place within the Downtown through aesthetics including architectural diversity, façade designs, parking configurations, pedestrian-scale amenities, streetscape enhancements, landscaping and the public realm.
- (c) Encourage vertical mixed-use development in which the lower floors generally have more public uses, with private uses on the upper levels.

2. *Downtown Design Manual.* Buildings within the MU-1 District shall give due regard to the standards within the Downtown Design Manual.

(E) *Transitional Mixed-Use District (MU-2).*

1. *Purpose.* This district is established to sustain and enhance the viability of commercial nodes that serve the needs of residents in adjacent neighborhoods while encouraging development and redevelopment consistent with the Comprehensive Plan. The district is also intended to:

- (a) Encourage appropriate transitions to surrounding land uses through aesthetics including architectural pedestrian-scale design, parking configuration, streetscape enhancements, landscaping and screening.

(F) *Corridor Mixed-use District (MU-3).*

1. *Purpose.* This district is established to encourage the development or redevelopment of mixed-use centers that combine new or existing retail development with a variety of housing, offices, studios, live-work space, civic building, employment activities, research, limited industrial and other complementary uses which combine to create a lively environment consistent with the Comprehensive Plan. The district is also intended to:

- (a) Encourage the integration of complementary and related uses in an aesthetically attractive and functional environment.
- (b) Encourage building and site design that advances the city's sustainability goals.
- (c) Promote desirable economic development activities.

(Ord. 739, passed 8-18-2015; Am. Ord. 748, passed 1-19-2016; Am. Ord. 753, passed 7-19- 2016)

§ 154.008 OVERLAY DISTRICTS.

(A) General provisions for overlay districts.

1. *General statement of purpose.* The requirements of the overlay districts shall apply to all zoning lots located in such districts in addition to all requirements in this code that apply to the primary zoning district classification of those zoning lots. In the event of a conflict between the provisions of any overlay district and the underlying primary zoning district, the provisions of the overlay district shall apply, except where otherwise specified.

(B) Downtown Overlay District (D-1).

1. *Purpose.* This district is established to:

- (a) Preserve cultural aspects of the Historic Commercial District.
- (b) Encourage the physical development of the city as intended by the city's Comprehensive Plan and Downtown Design Manual/Plans.
- (c) Encourage the harmonious development and appearance of structures and property within the district.
- (d) Maintain and improve property values of the district and throughout the city.

2. *Lot requirements.* In addition to the lot requirement standards, the following shall also apply:

- (a) Front & side yard setback.
 - i. Infill buildings must meet a build to line which shall be built flush to the sidewalk and flush to adjacent buildings.
 - ii. No side setbacks are allowed unless next to a public pedestrian way or residential district where setback is required.
- (b) Rear yard height transition to residential districts. When rear yards in this district directly abut any residential district the following rear setbacks are required:
 - i. Where no alley is present a setback of 15 feet is required.
 - ii. Where there is an alley present a setback of ten feet from the alley is required.
- (c) Building height.
 - i. Maximum building height is four stories or 50 feet, whichever is less.
 - ii. Minimum length of building may not be less than 22 feet along the front façade.
 - iii. No building may be greater than 24 feet higher than an adjacent building.

3. *Building orientation.* (see FIGURE 20)

- (a) Buildings on 7th Avenue shall have primary entrance onto 7th Avenue with design elements as indicated in the adopted Downtown Design Manual indicating entrance location.
- (b) For businesses which occupy the "back" half of a building on 7th Avenue, the primary entrance may be on the rear access to the building.
- (c) For businesses on corner lots, they are encouraged to provide dual access points as indicated in the adopted Downtown Design Manual.
- (d) Public rear entrances are allowed which meet the requirements of the adopted Downtown Design Manual.

(C) *Planned Unit Development District (PUD).*

1. *Purpose.* This district is established to:

(a) Provide for development as an integrated, coordinated unit as opposed to traditional parcel-by-parcel, approach to development.

(b) Introduce flexibility of site design and architecture for the conservation of land and open space through clustering of buildings and activities.

(c) Planned unit developments (PUD's) are to be characterized by central management, integrated planning and architecture, joint or common use of parking, maintenance of open space and other similar facilities, and a harmonious selection and efficient distribution of uses.

(d) Provide flexibility and joint planning between the city and developer to protect other features such as existing development, planned streets, vegetation, slopes, wetlands, lakes or streams.

2. *Objectives.* It is intended to encourage the efficient use of land and resources, to promote greater efficiency in public utility services and encourage innovation in the planning and building of all types of development. Public benefits to be derived as a result of the PUD include, but are not limited to:

(a) Permit and promote greater flexibility to allow more creativity and imaginative design, and to promote more efficient uses of the land while preserving existing landscape amenities and allowing harmonious development consistent with the Comprehensive Plan and preserving the health, safety and general welfare of the community.

(b) Ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes and scenic areas.

(c) Facilitate the economical provision of streets and public utilities.

(d) Encourage the preservation and enhancement of historic and natural resources while creating a positive environment with special development features.

(e) Allow more than one principal building on a lot.

(f) Allow for a mixture of residential units in an integrated and well-planned area and provide for a variety of housing types, consistent with the city's housing goals.

(g) Promote energy conservation through the use of more efficient building designs, sites and clustering of land uses and buildings.

(h) Provide for mixed commercial and residential uses, where appropriate.

3. *Types of permitted planned unit developments.* The underlying zoning district shall be consistent with the Comprehensive Plan. PUD overlay districts may be one of the following:

(a) Planned Residential District (PRD)

(b) Planned Commercial District (PCD)

(c) Planned Industrial District (PID)

(d) Planned Mixed-Use District (PMD)

4. *General requirements and standards.*

(a) *Ownership.* An application for PUD approval must be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approval of the final plat shall be binding on all owners. In absence of an ownership application, the project developer may submit with the development application the written consent of all property owners within the proposed PUD. The financial commitments incurred through any portion of the development shall be the responsibility of the owner.

(b) *Consistency with Comprehensive Plan.* The proposed PUD shall be consistent with the Comprehensive Plan.

(c) *Permitted uses.* All permitted, conditional, and interim uses contained in the underlying zoning district shall be treated as

permitted, conditional, and interim uses in the PUD Overlay District.

(d) Density. Increased density shall be permitted to encourage the preservation of natural topography and geological features. The city may, but shall not be required to, provide concessions in setbacks, density, or lot size to protect waterways or water bodies, steep slopes or other areas which would normally not be developable. The city will consider allowing an increase in the allowable density upon proof by the applicant that some of the following features are being provided as part of the proposed development:

- i. Preservation of natural site features, wetlands, lowlands, wooded areas, and the like, protected by the Minnesota Department of Natural Resources, by the city and/or Ramsey County ordinances.
- ii. Creation of conservation easements due to steep slopes, wooded areas and/or environmentally sensitive areas, as identified in the Comprehensive Plan.
- iii. Creation of park/public areas for active and passive park uses beyond required standards or other public purposes such as schools, public buildings, greenways, and the like which meet the intent of the Park and Recreation goals of the Comprehensive Plan and are consistent with the public dedication requirements for the proposed development.
- iv. Installation of public improvements designed to serve areas beyond the project boundary.
- v. The city may consider increased density for housing projects which provide affordable housing options, consistent with the Comprehensive Plan.

(e) Minimum lot size. The minimum lot size requirements of other sections of this chapter do not apply to a PUD except that the minimum lot size requirements of the underlying zone shall serve as a guideline to determine the maximum dwelling unit density of a total development. The maximum dwelling unit density shall be determined by the area remaining after appropriate space for street right-of-ways and any other public dedications have been determined and subtracted from the total PUD area. If the property involved in the PUD includes land in more than one zoning district, the number of dwelling units or the square footage of commercial, residential or industrial uses in the PUD shall be proportional to the amount that would be allowed separately on the parcels located in each of the underlying zoning districts.

(f) Relationship of PUD site to adjacent areas. The design of a PUD shall take into account the relationship of the site to the surrounding areas. The perimeter of the PUD shall be so designed as to minimize undesirable impact of the PUD on adjacent properties and, conversely, to minimize undesirable impact of adjacent land use and development characteristics on the PUD.

(g) Utility requirements. Utilities, including telephone and electrical systems, installed within a PUD shall be placed underground. Utility appurtenances which can be effectively screened may be exempt from this requirement if the city finds that such exemption will be consistent with the objective of this section and the character of the proposed PUD.

(h) Parking. Off-street parking and loading space shall be provided in each PUD in the same ratios for types of buildings and uses as required in the underlying zoning district.

(i) Street width. Requirements outlined in the subdivision ordinance for street widths may be relaxed depending on the number of off-street parking locations and the anticipated density in the planned unit development. The Planning Commission, City Engineer and city's Emergency Services (Fire, Ambulance and Police) shall review each planned unit development to determine street width requirements.

(j) Landscaping. In any PUD, the developer shall prepare and submit a landscaping plan as a part of the Final Plan, which shall include a detailed planting list with sizes and species indicated to be approved by the City Council. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the PUD plan.

(k) Public services. The proposed project shall be served by the city water and sewer system and fire hydrants shall be installed at such locations as required by the City Engineer or the Fire Chief to provide fire protection.

(l) Building height. Height limitations shall be the same as imposed in the respective zoning districts.

(m) Development agreement. Prior to the issuance of a building permit as part of the PUD, the permit applicant, builder, or developer shall execute and deliver to the City Council a development agreement for the PUD.

(n) Open space. Common open space shall be either held in common ownership by all owners in the PUD or dedicated for public use with approval of the City Council. Whenever possible, common open space shall be linked to the open space areas of adjoining developments. Common open space shall be of such size, shape, character, and locations as to be useable for its proposed purpose.

5. *Operating and maintenance requirements for PUD common open space and service facilities.*

(a) Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard.

(b) Common open space and service facilities within a PUD shall be placed under the ownership of one or more of the following or may include a method deemed most appropriate by the City Council.

- i. Landlord control, where only use by tenants is anticipated.
- ii. Property owners association, provided all of the following conditions are met:

A. Prior to the use, occupancy, sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document as specified in M.S. § 515.00, as may be amended from time to time, shall be filed with the Zoning Administrator prior to the filings of the declaration of documents or floor plans with the Ramsey County's Recorder's Office.

B. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject the properties to the terms of the declaration.

C. The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation may be formed, and if such an association or corporation is formed property owners must be members of the association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.

D. The declaration shall additionally, amongst other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the city, or fails to pay taxes or assessments on properties as they become due, and in the event the city incurs any expenses not immediately reimbursed by the association or corporation, then the city shall have the right to assess each property its pro rata share of the expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which such assessment is made.

E. Membership in the association must be mandatory for each owner and any successive buyer and the association must be responsible for liability insurance, taxes, and the maintenance of the open space facilities to be deeded to it. This requirement may be waived by the City Council for existing units which are being incorporated into a PUD.

F. The open space restrictions must be permanent and not for a given period of years.

G. Property owners must pay their pro rata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with state law and the association must be able to adjust the assessment to meet changing needs.

H. The by-laws and rules of the association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan. If a final PUD plan is filed in one phase, with staged final plats, the bylaws, rules of the association and all covenants and restrictions may be filed with the final plat.

I. Staging of common open space. The construction and provision of all of the common open space and public improvements and recreational facilities that are shown on the final development plan for a PUD must proceed at the same rate as the construction of dwelling units or other private facilities.

6. *PUD process.*

(a) Pre-application meeting. Upon filing of an application for a PUD, the applicant of the proposed PUD shall arrange for and attend an informational meeting with city staff. At such conference, the applicant shall be prepared to generally describe their proposal for a PUD. The primary purpose of the meeting shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the conformity to the provisions of this Code before incurring substantial expense in the preparation of detailed plans, surveys, and other data.

(b) Preliminary PUD plan process:

i. The developer/owner shall submit an application for subdivision or preliminary PUD plan at least 30 days prior to the Planning Commission meeting.

ii. The Zoning Administrator shall review the preliminary application and distribute to appropriate staff and consultants for review. The Zoning Administrator shall post notice of a public hearing and forward all comments, along with the application, to the Planning Commission.

iii. The Planning Commission shall conduct a public hearing, following published notice and mailed notice to property owners within 350 feet of the proposed PUD. Notice shall occur not less than ten or more than 30 days prior to the hearing. Failure of a property owner to receive notice shall not invalidate the process. The Planning Commission shall review the preliminary PUD plan and submit a written report and recommendation to the City Council. If the Planning Commission fails to make a report within 30 days after receipt of the application, the City Council may proceed without the report. Such report shall contain the findings and recommendations of the Planning Commission with respect to the conformity of the preliminary PUD plan to the approved general concept plan, with respect to the merit or lack of merit of any departure of the preliminary PUD plan from substantial conformity with the general concept plan, and with respect to the compliance of the preliminary PUD plan with the provisions of this Code and all other applicable federal, state, and local codes and ordinances.

iv. Within 60 days of the receipt of a complete application, the City Council will take action to grant approval, grant conditional approval, or deny approval of the plan.

v. Upon City Council approval, the City Attorney shall draft a PUD development agreement which stipulates the specific terms and conditions established and approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor, City Manager, and the applicant.

vi. Where the preliminary PUD plan is denied approval, City Council action shall be by resolution setting forth the reasons for its actions. A certified copy of the document evidencing said City Council action shall be delivered to the applicant. The applicant will have 60 days to submit a revised preliminary PUD plan to the Planning Commission. After the 60 day period, a revised general concept plan must be submitted to the Planning Commission unless otherwise arranged with the Zoning Administrator.

vii. If subsequent submittals of the preliminary PUD plan are denied approval two times within one year of the original submission date, the applicant will be required to submit a revised general concept plan.

viii. Limitation on preliminary PUD Plan approval. Unless a final plan covering the area designated in the first stage of the preliminary PUD plan has been filed within six months from the date the City Council grants preliminary PUD plan approval, or in any case where the applicant fails to file final plans and to proceed with development in accordance with the provisions of this section and/or an approved preliminary PUD plan, the approval shall expire. The City Council may, at its discretion, extend for not more than one additional period of six months the filing deadline for any final plan when, for good cause, such extension is necessary. In any case where the preliminary PUD plan approval expires, the City Council shall forthwith adopt a resolution repealing the general concept plan approval and the preliminary PUD plan approval for that portion of the PUD that has not received final plan approval, and re-establish the zoning and other ordinance provisions that would otherwise be applicable.

ix. Review and evaluation criteria. The evaluation of the proposed preliminary PUD plan shall include, but not be limited to, the following criteria:

A. Adequate property control is provided to protect the individual owner's rights and property values and the public responsibility for maintenance and upkeep.

B. The interior circulation plan plus access from and onto public rights-of-way does not create congestion or dangers and is adequate for the safety of the project resident and the general public.

C. A sufficient amount of usable open space is provided.

D. The arrangement of buildings, structures, and accessory uses does not unreasonably disturb the privacy or property values of the surrounding residential uses.

E. The architectural design of the project is visually compatible with the surrounding area. Architectural style or type of buildings shall not solely be a basis for denial or approval of the preliminary PUD plan. However, the overall appearance and compatibility of individual buildings to other site elements of surrounding development will be given primary consideration in the review stages of the Planning Commission and City Council.

F. The drainage and utility system plans are submitted to the City Engineer and shall be subject to approval of the City Engineer.

G. The development schedule insures a logical development of the site which will protect the public interest and conserve land.

H. Proposed unit and accessory use requirements are in compliance with the district provisions in which the development is planned.

(c) Final PUD plan process. The final plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other city ordinances as the land use regulation applicable to the PUD.

i. Submission of the final plan. Upon approval of the preliminary PUD plan, the applicant shall file with the Zoning Administrator a final plan consisting of the information and submissions required by the final plan stage, for the entire PUD or for one or more stages. The final plan is intended only to add detail to, and to put in final form, the information contained in the general concept plan and the preliminary PUD plan which shall conform to the preliminary PUD plan in all respects. A final plan of a portion of the proposed development may be submitted simultaneously with the overall preliminary plan for purposes of expediting the review process.

ii. Review and approval of final plan. The Zoning Administrator shall forward comments of staff and consultants to the Planning Commission, who shall prepare a recommendation for the City Council. No public hearing shall be required for approval of the final plan. The City Council may approve the PUD final plan with a majority vote.

iii. Recording of final plat and PUD agreement. Within 30 days of the Zoning Administrator's notice of approval, the applicant shall record the final plat and PUD agreement, or such portions thereof as are appropriate, with the Office of the Ramsey County Recorder.

iv. Building and other permits. No building permit shall be granted on land for which a plan for a PUD is in the process of review or which does not conform to the approved final plan. Upon receiving notice from the Zoning Administrator that the approved final plat and agreement has been recorded and upon appropriate application of the applicant, building and other permits may be issued to the applicant if the following conditions are met:

A. Public open space, if applicable, has been deeded to the city and officially recorded.

B. A development agreement has been approved and executed by all parties.

C. The homeowner's association (if applicable) by-laws, covenants and deed restrictions have been approved by the City Attorney and officially recorded.

D. The construction plans for proposed structures have been approved by the Building Official.

E. All detailed site plans have been approved by the Zoning Administrator.

v. Limitation of final plan approval. Within one year after the approval of a final plan for PUD, or such shorter time as may be established by the appropriate development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension has been granted as hereinafter provided, automatically renders void the PUD permit and all approvals of the PUD plan. The area encompassed within the PUD shall thereafter be subject to those provisions of the zoning ordinances and other ordinances applicable in the district in which it is located. In such case, the City Council shall forthwith adopt a resolution repealing the PUD permit and PUD approvals and re-establishing the zoning and other ordinance provisions that would otherwise be applicable.

7. PUD data requirements.

(a) Pre-application concept plan. Prior to the initiation of a zoning change application, owners of property in the PUD District are invited to prepare, for review by the city, development sketch plans. Items to be supplied by the applicant for the pre-application meeting include:

i. Overall maximum PUD density range.

ii. Proposed general development and use.

iii. General location of major streets, pedestrian walkways adjacent to the tract, and scale and tract boundaries and north point.

iv. General location and extent of public and/or common open space, areas to be preserved, significant topographical and physical features.

v. Sketch illustrating the general location of residential and non-residential land uses with approximate intensities of development and any zoning change requested.

- vi. Staging and timetable of development.
 - vii. Other special criteria for development.
 - viii. Such sketch plans submitted shall be for informal discussion between the developer and the city. Submission of sketch plan shall not constitute formal filing of an application.
 - ix. As far as may be practicable on the basis of a sketch plan, the city will informally advise the owner as promptly as possible of the extent to which the proposed plan conforms to the design standards of this section and discuss possible plan modifications necessary to secure conformance. The sketch may be reviewed, where applicable, by the Planning Commission and the Council.
 - x. The proposed use(s) must be consistent with the Comprehensive Plan.
 - xi. All proposals shall include a PUD plan for the site.
- (b) Preliminary PUD plan. An application for approval of a preliminary PUD plan shall be filed with the Zoning Administrator by the owner(s) of title of property for which the PUD is proposed. A filing fee, as established from time to time by City Council ordinance, shall accompany the preliminary PUD application. The application and accompanying statements shall be submitted and shall include:
- i. A vicinity map at a scale approved by the Zoning Administrator showing property lines, streets, easements, existing zoning, graphic scale, north point, date of preparation, and such other items as the Planning Commission may require to show the relationship of the proposed PUD to the Comprehensive Plan of the city, to existing schools and other community facilities and services, and to the surrounding area.
 - ii. Abstractor's certified copy property certificate providing names and addresses of property owners within 350 feet of the outer boundaries of the property (one copy).
 - iii. The legal description of the property and lot size.
 - iv. Boundary survey prepared by a registered surveyor, including the property and 200 beyond, which illustrates:
 - A. Existing property lines and dimensions.
 - B. Ownership of all parcels.
 - C. Platting and easements.
 - D. Street and railroad right-of-ways.
 - E. Buildings.
 - F. Utility lines and facilities.
 - G. Public park and open space.
 - H. Private land use, subdivisions, and private property.
 - v. Natural features map(s) illustrating:
 - A. Contour lines at no more than two foot intervals.
 - B. Steep slopes of 18% or more.
 - C. Hydraulic information including drainage patterns, delineated wetlands and land subject to periodic flooding, floodplain, watercourses.
 - D. Soil and subsoil conditions.
 - E. Vegetation including classification of tree cover by species.
 - vi. A preliminary plan of the entire area in such detail as to show the land uses being requested, the densities being proposed, the proposed lots and blocks and the off-street parking system or preliminary plat, if applicable.
 - vii. A written statement explaining in detail, and with supporting documentation, the specifics of the development plan as it

relates to the type of dwelling units proposed and the resulting population, the extent and nature of non-residential development and the resulting traffic generated and parking demands created.

viii. The proposed schedule and/or phasing for the development of the site.

ix. The location, shape, size, and character of public or private/common open space which is suitable for the PUD, in accordance with the City Code Chapter 153 requirements for park and open space dedication.

x. The location and size of all utilities including telephone, electricity, gas, cable, water, sanitary sewer and storm sewer.

xi. Landscape plan including a detailed planting list.

xii. Size and location of all street right-of-ways and proposed paved widths, and vehicular and pedestrian circulation, in conformance with the City Code Chapter 153.

xiii. A statement setting forth the reasons why, in the opinion of the applicant, the PUD will be in the public interest and consistent with the objectives specified for PUD's.

xiv. Financial capacity of the developer/owner and fiscal resources available including a FDIC insured letter of credit for 110% of the estimated cost of public improvements associated with the development.

xv. Market area of the project and demand trends within the area.

xvi. Other materials as requested by the Planning Commission or City Council.

(c) Final plan data requirements. A final application and its supporting documentation shall give the same information as is required of plats under City Code Chapter 153 in addition to such other information as required by this chapter and by the Planning Commission as a condition for approval of the preliminary plan. In addition, the application shall be accompanied by such other documentation, such as:

i. The location, size, use and arrangement, including height in stories and feet, and total square feet of ground area coverage and floor area, for proposed building, and existing buildings which will remain, if any.

ii. The location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces, access alleys, and all other circulation elements including bicycle, pedestrian walkways, and the total site coverage of all circulation elements.

iii. Approximate area, and potential floor area, devoted to commercial or office uses.

iv. Approximate area, and potential floor area, devoted to industrial uses.

v. Schedule of construction. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season (time period between road restrictions), a schedule for the development of such 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 such stage, and the overall chronology of development to be followed from stage to stage.

vi. Care and maintenance of open spaces or service facilities. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities shall be submitted. If it is proposed that such open space be owned, operated and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted during the preliminary PUD plan stage.

vii. Where applicable, a preliminary and final plat prepared by a land surveyor, duly registered in the state, in accordance with M.S. § 505.00 and City Code Chapter 153, as may be amended from time to time, which shall contain a notarized certification by such surveyor that the plat represents a survey made by the surveyor and that the monuments shown herein exist as located, and all dimensions are correct, and a notarized certification by the owner or owners of the adoption of the plat and the dedication of streets and other public areas as required.

viii. Detailed utility and infrastructure construction plans, grading plan and drainage plan, approved by the City Engineer.

ix. A statement summarizing all changes which have been made to any document, plan data, or information previously submitted, together with revised copies of any such document, plan or data.

x. Such other and further information as the Zoning Administrator, City Engineer, Planning Commission or City Council shall

find necessary to a full consideration of the entire proposed PUD or any stage thereof.

xi. Title opinion provided by the developer showing good and marketable title in the names of the owners of the property. This opinion, together with an updated abstract, should be submitted to the City Attorney for review.

xii. The Planning Commission may, by a written order, excuse any applicant from submitting any specific item of information required herein which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

8. *Amendments and administration.*

(a) Generally. Amendments may be made in the approved final plan when they have shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the city.

(b) Minor changes in location, siting, design, and height of buildings and structures may be authorized by the Zoning Administrator if requested, and if caused by unforeseen circumstances and if they are consistent with the intent and purpose of the final plan and do not increase the size of any building or structure any more than 10% than originally proposed in the preliminary PUD plan.

(c) All other changes, including but not limited to use, rearrangement of lots, blocks and open space must be authorized by the Planning Commission and City Council under procedures

outlined in the preliminary PUD plan, following a public hearing, with amendments to the recorded copy of the final plan, following Council approval. It could leave questions later on that it wasn't listed in the ordinance.

(d) Annual review. The Zoning Administrator shall review each PUD at least once each year and shall make a report through the Planning Commission to the City Council on the status of the development in each PUD Overlay District. If development is not progressing reasonably well, according to schedule, the owner shall be required to submit a statement to the Zoning Administrator setting forth the reasons for the lack of progress. If the City Council finds that the development has not occurred according to the establishing development schedule or is not otherwise reasonable in the view of the City Council, the City Council may revoke the PUD Overlay District in any event.

(D) *Shoreland Overlay District (S-1).*

1. *Purpose.*

(a) The unregulated use of shorelands in the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise use and development of shorelands of public waters.

(b) Statutory authorization. These shoreland regulations are adopted pursuant to the authorization and policies contained in M.S. § 103F, Minnesota Regulations, parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in M.S. § 462.

(c) Jurisdiction. The provisions of this Code shall apply to shorelands of the public water bodies as classified in § 154.008(2)(b) of this Code. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Code.

(d) Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the grading and filling of any shoreland area; and the cutting of shoreland vegetation shall be in full compliance with the terms of this Code and other applicable regulations.

(e) District application. The Shoreland Overlay District shall be superimposed (overlaid) upon all the zoning districts as identified in Chapter 154 of City Code as existing or amended by the text and map of this Code. The regulations and requirements imposed by the Shoreland Overlay District shall be in addition to those established by the base zoning district which jointly apply. Under joint application of the districts, the more restrictive requirements shall apply.

(f) Exemption. A structure or use which was lawful before adoption of this chapter, but which is not in conformity with the provisions of the Shoreland Overlay District, may be continued subject to § 154.008 of this Code.

2. *Protected waters and classification.*

(a) District boundaries. The boundaries of the Shoreland Overlay District within the city shall consist of all lands as described within the definition of shoreland in § 154.003 of this Code.

(b) Waters classifications. The following waters have been given classifications and are regulated as such under state law.

| ID | Name | DNR classification | OHWL | Watershed District |
|-----------|-------------|---------------------------|-------------|---------------------------|
| 62000500 | Casey Lake | Natural Environment | 926.3 ft | RWMWD |
| 62000100 | Silver Lake | Recreational Development | 989.57 ft | VBWD |

3. *Administration and permits.*

(a) Permits required.

i. When a building, zoning or conditional use permit is required for any activity regulated herein, no additional shoreland alteration permit shall be required. However, the standards for the activity as contained herein shall be applied to the issuance of that permit.

ii. A shoreland alteration permit shall be required for all construction and development activity regulated within this chapter including for:

1. All grading, filling and excavation activity as regulated within § 154.008(D)(8).

2. The construction of stairways, lifts, landings, water oriented accessory structures and retaining walls located within the shore impact zone (unless a building permit is required and issued).

iii. Activity regulated under § 154.008 (D)(7) and other activities specifically exempted within this chapter shall not require a shoreland alteration permit.

(b) DNR notification procedures.

i. Notification shall be provided to the DNR Area Hydrologist at least ten days prior to a public hearing to consider variances, conditional use permits or plats within the shoreland area or amendments to the shoreland standards.

ii. Notification shall occur ten days after a final decision on all variances, conditional use permits or plats.

(c) Watershed management notification & permits. Additional requirements of the Valley Branch Watershed District (VBWD) for Silver Lake and Ramsey-Washington Metro Watershed District (RWMWD) for Casey Lake apply to some projects.

4. *Development standards.*

(a) Lot area and width standards shall be regulated per the underlying zoning district of the property.

(b) Use of the property shall be governed by the underlying zoning district provisions.

(c) Height of structures and other facilities on lots shall be regulated per the underlying zoning district of the property except for facilities specified herein.

(d) Setback requirements.

i. The following setback requirements from the ordinary high water level (OHWL) shall apply as indicated in the chart below. As an alternative, the setback distance determined by the average setback of structures on the two immediately adjoining lots can be used if the proposed structure is not located in a shore impact zone.

| Name | One Water Oriented Accessory Structure per lot | Principal Structures & All Additional Accessory Buildings |
|-------------|---|--|
| Casey Lake | 10 feet | 75 feet |
| Silver Lake | 10 feet | 75 feet |

ii. The following types of structures are exempt from OHWL setbacks indicated above, but are required to follow the standards contained in § 154.008(D) items 5-11:

- A. Stairways, stairway landings, and pedestrian lifts.
- B. Watercraft landing lift facilities and docks.
- C. Decks.
- D. Public park, beach, and marina facilities and other public improvements.

5. *Water oriented accessory structure performance standards.* One water oriented accessory structure is allowed per lot and must meet the following standards:

- (a) All structures must be located so as to minimize the impact upon existing vegetation, and whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf-on conditions.
- (b) The structure or facility must not exceed ten feet in height, exclusive of safety rails. Detached decks must not exceed eight feet above grade at any point.
- (c) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.
- (d) Maximum size of structure is:
 - i. Casey Lake 250 square feet.
 - ii. Silver Lake 400 square feet and 20 feet wide.
- (e) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
- (f) The structure must obtain a shoreland alteration permit.
- (g) The following standards shall apply to attached or detached decks:
 - i. The deck encroachment toward the OHWL does not exceed 15% of the existing setback of the principal structure from the OHWL or does not encroach closer than 30 feet, whichever is more restrictive.
 - ii. The deck is not enclosed, roofed or screened, and does not result in the creation of an impervious surface.

6. *Stairways, lifts and landings.*

- (a) Stairways, stairway landings, and pedestrian lifts shall be located whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf-on conditions.
- (b) Construction and design.
 - i. Stairways and pedestrian lifts must not exceed four feet in width on residential lots.
 - ii. Landings for stairways and pedestrian lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties and public open-space recreational properties.
 - iii. Canopies or roofs are not allowed on stairways, stairway landings, or pedestrian lifts.
 - iv. Stairways, stairway landings, and pedestrian lifts may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

7. *Shoreland vegetation alterations.*

- (a) Intensive vegetation clearing within the shore impact zones and on slopes greater than three to one is not allowed.
- (b) In shore impact zones and on steep slopes (greater than three to one), limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water oriented accessory structures or facilities provided that:

i. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.

ii. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards and the removal of plants deemed noxious under state or local ordinances.

(c) Use of fertilizer and pesticides in the Shoreland Overlay District must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.

(d) For Silver Lake, additional vegetation standards are required per the VBWD.

8. *Shoreland grading & filling alterations.*

(a) Grading, filling and excavations necessary for the construction of structures and driveways under validly issued permits for these facilities do not require the issuance of a separate shoreland alteration permit however considerations and conditions stated as follows in § 154.008(D)(8)(b) and (c) must be adhered to during the issuance of building permits, grading permits, conditional use permits, variances and subdivision approvals within the shoreland area.

(b) Notwithstanding § 154.008(D)(8) item (a) (above) the movement of more than ten cubic yards of material within shore impact zones will require a shoreland alteration permit.

(c) Alteration standards & requirements.

i. No person may fill, drain, excavate or otherwise alter the hydrology of a wetland without first obtaining a permit from the Watershed District.

ii. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

iii. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

iv. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

v. Altered areas must be stabilized to acceptable erosion control standards

consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

vi. Fill or excavated material must not be placed in a manner that creates an unstable slope.

vii. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must create finished slopes of less than 3:1 slope.

viii. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under M.S. § 103G.245.

ix. Alterations of topography must only be allowed if they are accessory to permitted or special uses and do not adversely affect adjacent or nearby properties.

x. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three feet.

9. *Roads.*

(a) Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must be designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local Soil and Water Conservation District, or other applicable technical materials.

(b) Roads, driveways, and parking areas must not be placed within shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

10. *Stormwater management.*

(a) When possible, existing natural drainage-ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(b) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

(c) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the local watershed district or of the local soil and water conservation districts.

(d) New constructed stormwater outfall to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(e) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(f) Additional stormwater management requirements may be required by the RWMWD and VBWD.

(g) Impervious surface coverage shall be limited to amounts allowed in underlying zoning district standards, except that no impervious surface shall be allowed in the shore impact zone.

11. Sanitary provisions. Publicly owned sewer systems must be used for all properties in the Shoreland Overlay District.

(E) *Floodplain.*

1. *Purpose.*

(a) Purpose. This chapter regulates development in the flood hazard areas of North St. Paul. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this chapter to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(b) National Flood Insurance Program Compliance. This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(c) This chapter is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

2. *Statutory authorization and findings of fact.* The legislature of the State of Minnesota has, in M.S. § 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of North St. Paul, Minnesota, does ordain as follows:

3. *General provisions.*

(a) How to use this chapter. This chapter adopts the floodplain maps applicable to North St. Paul and includes three floodplain districts: Floodway, Floodway Fringe, and General Floodplain.

i. Where Floodway and Flood Fringe Districts are delineated on the floodplain maps, the standards in § 154.008 (E) items (4) or (5) will apply, depending on the location of a property.

ii. Locations where Floodway and Flood Fringe Districts are not delineated on the floodplain maps are considered to fall within the General Floodplain District. Within the General Floodplain District, the Floodway District standards in § 154.008 (E)(4) apply unless the floodway boundary is determined, according to the process outlined in § 154.008 (E)(6). Once the floodway boundary is determined, the Flood Fringe District standards in § 154.008 (E)(5) may apply outside the floodway.

(b) Lands to which chapter applies. This chapter applies to all lands within the jurisdiction of the city shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.

i. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this chapter. In case of a conflict, the more restrictive standards will apply.

(c) Incorporation of maps by reference. The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this chapter. The attached material includes the Flood Insurance Study for Ramsey County, Minnesota, and Incorporated Areas, dated June 4, 2010 and the Flood Insurance Rate Map panels enumerated below, dated June 4, 2010, all prepared by the Federal Emergency Management Agency. These materials are on file in the office of the City Manager and the Zoning Administrator.

- i. 27123C0044G
- ii. 27123C0065G
- iii. 27123C0110G
- iv. 27123C0130G

(d) Regulatory Flood Protection Elevation (RFPE). The regulatory flood protection elevation is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(e) Interpretation. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.

i. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

ii. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

(f) Abrogation and greater restrictions. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this chapter imposes greater restrictions, the provisions of this chapter prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(g) Warning and disclaimer of liability. This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter does not create liability on the part of the city or its officers or employees for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(h) Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of law, the remainder of this chapter shall not be affected and shall remain in full force.

(i) Annexations. The Flood Insurance Rate Map panels adopted by reference into § 154.008 (F)(3)(c) above may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this chapter, the newly annexed floodplain lands will be subject to the provisions of this chapter immediately upon the date of annexation.

4. *Establishment of zoning districts.*

(a) Districts:

i. Floodway District. The Floodway District includes those areas designated as floodway on the Flood Insurance Rate Map adopted in § 154.008 (F)(3)(c).

ii. Flood Fringe District. The Flood Fringe District includes those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in § 154.008 (F)(3)(c), as being within Zone AE, but being located outside of the floodway.

iii. General Floodplain District. The General Floodplain District includes those areas designated as Zone A and Zone AE, without a floodway on the Flood Insurance Rate Map adopted in § 154.008 (F)(3)(c).

(b) Compliance. Within the floodplain districts established in this chapter, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the

subdivision of land must comply with the terms of this chapter and other applicable regulations. All uses not listed as permitted uses or conditional uses in § 154.008 (F)(5) (Flood Way), (6) (Flood Fringe) and (7) (General Floodplain), respectively, are prohibited. In addition, a caution is provided here that:

- i. New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this chapter and specifically § 154.008 (F)(10).
- ii. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically § 154.008 (F)(12).
- iii. As-built elevations for elevated or floodproofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in § 154.008 (F)(11) of this chapter.

5. *Floodway District (FW).*

(a) Permitted uses. The following uses, subject to the standards set forth in § 154.008 (F)(5)(b), are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- i. Pasture land, outdoor plant nurseries, horticulture, forestry, sod farming and wild crop harvesting.
- ii. Industrial-commercial loading areas, parking areas and airport landing strips.
- iii. Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- iv. Residential lawns, gardens, parking areas and play areas.
- v. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit, and that the standards in § 154.009 (F)(5)(d)(i), (ii), and (iii)(a) of this chapter are met.

(b) Standards for floodway permitted uses.

- i. The use must have a low flood damage potential.
- ii. With the exception of the uses listed in § 154.008 (F)(5)(a)(v), the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.
- iii. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence or the regional (1% chance) flood.

(c) Conditional uses. The following uses may be allowed as conditional uses following the standards and procedures set forth in this chapter and further subject to standards if otherwise allowed in the underlying zoning district or any applicable overlay district.

- i. Structures accessory to the uses listed in § 154.008 (F)(5)(a) above and the uses listed in (ii-vii) below.
- ii. Extraction and storage of sand, gravel and other materials.
- iii. Marinas, boat rentals, docks, piers, wharves and water control structures.
- iv. Storage yards for equipment, machinery, or materials.
- v. Placement of fill or construction of fences that obstruct flood flows. Farm fences, are permitted uses.
- vi. Road ready recreational vehicles meeting the exception standards in § 154.008 (F)(10)(c).
- vii. Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

(d) Standards for floodway conditional uses.

- i. All uses. A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an

increase in flood damages in the reach or reaches affected.

ii. Storage of materials and equipment.

A. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potential injurious to human, animal, or plant life is prohibited.

iii. Fill.

A. Fill, dredge spoil and other similar materials deposited or stored in the flood plain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

B. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

iv. Accessory structures.

A. Accessory structures must not be designed for human habitation.

B. Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

1. Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and
2. So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.

C. Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. All floodproofed accessory structures must meet the following additional standards:

1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and designed to equalize hydrostatic flood forces on exterior walls; and
2. Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.

D. As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:

1. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
2. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

E. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of M.S. § 103G.245.

F. A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

G. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

6. *Flood Fringe District (FF).*

(a) Permitted uses. Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in § 154.008(E)(6)(b), which follows.

(b) Standards for flood fringe permitted uses.

i. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

A. As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with § 154.008(E)(5)(d)(iii)(D).

ii. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with § 154.008(E)(6)(b)(i) of this chapter, or if allowed as a conditional use under § 154.008(E)(6)(c) below.

iii. The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

iv. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

v. Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

vi. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City Council.

vii. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

viii. Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

ix. Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

x. Manufactured homes and recreational vehicles must meet the standards of § 154.009(F)(10) of this chapter.

(c) Conditional uses. The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in § 154.008(F)(11)(d), Conditional Uses of this chapter. Conditional uses must meet the standards in § 154.008(F)(6)(b)(iv) through (b)(x) and § 154.008(F)(5)(d).

i. Any structure that is not elevated on fill or floodproofed in accordance with § 154.008(E)(6)(b)(i) of this chapter.

ii. Storage of any material or equipment below the regulatory flood protection elevation.

iii. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with § 154.008(E)(6)(b)(ii) of this chapter.

(d) Standards for Flood Fringe Conditional Uses.

i. The standards listed in § 154.008(E)(6)(b)(iv) through (6)(b)(x) apply to all conditional uses.

ii. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area is considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:

A. Design and certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment, including ductwork, and other service facilities are placed at or above the regulatory flood protection elevation or are designed to prevent flood water from entering or accumulating within these

components during times of flooding.

B. Specific standards for above-grade, enclosed areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood. The design plans must stipulate:

1. A minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There must be a minimum of two openings on at least two sides of the structure and the bottom of all openings must be a maximum of one foot above grade. The automatic openings must have a net area of at least one square inch for every square foot of enclosed area subject to flooding, unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and

2. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and will be used solely for building access, parking of vehicles, or storage.

iii. Basements are subject to the following:

A. Residential basement construction is not allowed below the regulatory flood protection elevation.

B. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with § 154.008(E)(6)(d)(iv) of this chapter, which follows.

iv. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.

v. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

A. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

B. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.

C. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

vi. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

7. General Floodplain District (GF).

(a) Permitted uses.

i. The uses listed in § 154.008(E)(5)(a) of this chapter, Floodway District Permitted Uses, are permitted uses.

ii. All other uses are subject to the floodway/flood fringe evaluation criteria specified in § 154.008(F)(5)(b) below and in § 154.008(F)(5) applies if the proposed use is determined to be in the Floodway District in § 154.009(F)(6) applies if the proposed use is determined to be in the Flood Fringe District.

(b) Procedures for floodway and flood fringe determinations.

i. Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

ii. If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in § 154.008(E)(5)(c) below.

(c) The determination of floodway and flood fringe must include the following components, as applicable:

- i. Estimate the peak discharge of the regional (1% chance) flood.
- ii. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- iii. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

(d) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

(e) Once the Floodway and Flood Fringe District Boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of § 154.008(F)(5) and (6).

8. *Land development standards.*

(a) General. Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of North Saint Paul.

(b) Subdivisions. No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this chapter.

i. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

ii. All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

iii. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

iv. In the General Floodplain District, applicants must provide the information required in § 154.008(F)(7)(b) to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

v. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

- A. All such proposals are consistent with the need to minimize flood damage within the flood prone area,
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- C. Adequate drainage is provided to reduce exposure of flood hazard.

vi. Building Sites. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- A. 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,
- B. Constructed with materials and utility equipment resistant to flood damage,
- C. Constructed by methods and practices that minimize flood damage, and

D. 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.

9. *Public utilities, railroads, roads, and bridges.*

(a) Public utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

(b) Public transportation facilities. Railroad tracks, roads, and bridges to be located within the floodplain must comply with § 154.008(E)(5) and (6). These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(c) On-site water supply and sewage treatment systems. Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this section.

10. *Manufactured homes, manufactured home parks, and recreational vehicles.*

(a) Manufactured homes. New manufactured home parks, expansions to existing manufactured home parks, and new or replacement manufactured home units on lots of record are prohibited in the Floodway District. If allowed in the Flood Fringe District, these uses are subject to the requirements of § 154.008(E)(6) and the following standards.

(b) Placement of manufactured homes. New and replacement manufactured homes in the Flood Fringe District must comply with the following standards:

i. New and replacement manufactured homes must be elevated in compliance with § 154.008(E)(6) and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

ii. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in § 154.008(E)(8)(b)(ii).

(c) Recreational vehicles. Placement of recreational vehicles in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this chapter.

i. Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the following areas and meet the criteria listed as follows:

A. Individual lots or parcels of record.

B. Existing commercial recreational vehicle parks or campgrounds.

C. Existing condominium- type associations.

ii. Criteria for exempt recreational vehicles.

A. The vehicle must have a current license required for highway use.

B. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

C. No permanent structural type additions may be attached to the vehicle.

D. The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.

E. Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in § 154.008(E)(8)(b).

F. An accessory structure must constitute a minimal investment.

iii. Recreational vehicles that are exempt in § 154.008(E)(8)(c)(ii) lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of this chapter. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

iv. New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:

A. On any new or replacement recreational vehicle site in the Flood Fringe District, the recreational vehicle and its contents must be placed on fill at or above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with § 154.008(E)(8)(b)(ii) of this chapter.

B. Any new or replacement recreational vehicle site located in the Floodway District or as an alternative to (a) above in the Flood Fringe District, may be allowed as a conditional use in accordance with the following provisions and the provisions of § 154.008(E)(11)(d) of this chapter.

1. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the City Council, as specified in § 154.008(E)(8)(b)(ii). The plan must demonstrate that adequate time and personnel exist to carry out an evacuation, and that the exemption provisions of this chapter will be met; and

2. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 154.008(E)(9)(c) of this chapter.

3. Any fill placed in the floodway to meet the requirements of this section must not increase the flood stage of the regional (1% chance) flood.

11. *Administration.*

(a) Zoning Administrator. A Zoning Administrator or other official designated by the City Council must administer and enforce this chapter.

(b) Permit requirements.

i. Permit required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

A. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this chapter.

B. The use or change of use of a building, structure, or land.

C. The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this chapter.

D. The change or extension of a nonconforming use.

E. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

F. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

G. Relocation or alteration of a watercourse, unless a public waters work permit has been issued.

H. Any other type of "development" as defined in this chapter.

ii. Application for permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

A. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

B. Location of fill or storage of materials in relation to the stream channel.

C. Copies of any required municipal, county, state or federal permits or approvals.

D. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

iii. Certificate of zoning compliance for a new, altered, or nonconforming use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

iv. Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Floodproofing measures must be certified by a registered professional engineer or registered architect.

v. Record of first floor elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

vi. Notifications for watercourse alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Federal Emergency Management Agency (FEMA).

vii. Notification to FEMA when physical changes increase or decrease base flood elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(c) Variances.

i. Variance applications. An application for a variance to the provisions of this section will be processed and reviewed in accordance with applicable § 154.004(D).

ii. Adherence to state floodplain management standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

iii. Additional variance criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

A. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances may only be issued upon:

1. A showing of good and sufficient cause.

2. A determination that failure to grant the variance would result in exceptional practical difficulty to the applicant.

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

C. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

iv. Flood insurance notice. The Zoning Administrator must notify the applicant for a variance that:

A. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

B. Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

v. General considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

- A. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
- B. The danger that materials may be swept onto other lands or downstream to the injury of others;
- C. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
- D. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- E. The importance of the services to be provided by the proposed use to the community;
- F. The requirements of the facility for a waterfront location;
- G. The availability of viable alternative locations for the proposed use that are not subject to flooding;
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- I. The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
- J. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

vi. Submittal of hearing notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

vii. Submittal of final decisions to the Department of Natural Resources (DNR). A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

viii. Record-keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(d) Conditional uses.

i. Administrative review. An application for a conditional use permit under the provisions of this section will be processed and reviewed in accordance with § 154.004(E)(1).

ii. Factors used in decision-making. In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of this chapter, and those factors identified in § 154.008(E)(8)(e) of this chapter.

iii. Conditions attached to conditional use permits. The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

- A. Modification of waste treatment and water supply facilities.
- B. Limitations on period of use, occupancy, and operation.
- C. Imposition of operational controls, sureties, and deed restrictions.
- D. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- E. Floodproofing measures, in accordance with the State Building Code and this chapter. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

iv. Submittal of hearing notices to the Department of Natural Resources (DNR). The (designated body/community official) must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

v. Submittal of final decisions to the Department of Natural Resources (DNR). A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

12. *Nonconformities; continuance of nonconformities.* A use, structure, or occupancy of land which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in § 154.003 are subject to the provisions of items (a)-(e) as follows:

(a) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

(b) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in (c) - (g) as follows.

(c) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure may not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50% of the market value of the structure, then the structure must meet the standards of § 154.008(E)(8) of this chapter for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(d) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this chapter. The assessor must notify the Zoning Administrator of instances of nonconformities that have been discontinued for a period of more than one year.

(e) If any nonconformity is substantially damaged, as defined in § 154.003, it may not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in § 154.008(E)(5) or (6) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

(f) If any nonconforming use or structure experiences a repetitive loss, as defined in § 154.003, it must not be reconstructed except in conformity with the provisions of this chapter.

(g) Any substantial improvement to a nonconforming structure requires that the existing structure and any additions must meet the requirements of § 154.008(E)(5) or (6) of this chapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

13. *Penalties and enforcement.*

(a) Violation constitutes a misdemeanor. Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

(b) Other lawful action. Nothing in this chapter restricts the City of North Saint Paul from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this chapter and will be prosecuted accordingly.

(c) Enforcement. Violations of the provisions of this chapter will be investigated and resolved in accordance with the provisions of section(s) (list relevant sections) of the zoning ordinance/code of the City of North Saint Paul. In responding to a suspected ordinance violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of North Saint Paul must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

14. *Amendments.*

(a) Floodplain designation; restrictions on removal. The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be

permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(b) Amendments require DNR approval. All amendments to this chapter must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

(c) Map revisions require ordinance amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in § 154.008(E)(3)(c).

(Ord. 739, passed 8-18-2015; Am. Ord. 745, passed 12-15-2015)

§ 154.009 NONCONFORMITIES.

This section does not prohibit the City of North St. Paul from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses.

(A) *Continuation of legal non-conformities.* Except as otherwise provided by law, any nonconformity may be continued per the following standards including non-conforming uses (the lawful use or occupation of land or premises), non-conforming structures, and non-conforming lots (as defined in 154.003). Non-conformities may not continue through expansion (except as in division (C) "MU-3 zone expansion exception" which follows) but may be continued through repair, replacement, restoration, maintenance, or improvement, unless:

1. The nonconformity or occupancy is discontinued for a period of more than one year; or
2. The nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value, as indicated in the records of the county assessor at the time of damage and no building permit has been applied for within 180 days of when the property is damaged. In this case:

(a) A municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body; and

(b) When a nonconforming structure in the Shoreland District with less than 50% of the required setback from the water is destroyed by fire or other peril to greater than 50% of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(B) *Subsequent use or occupancy.* Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

(C) *MU-3 Zone Expansion exception.* A building permit may be granted to a nonconforming use in the MU-3 zone if all of the following are met:

1. The expansion of the use involves an expansion of no more than 10% of the gross floor area of the building;
2. The modification of the use consists of an expansion amounting to no more than 10% of the approved gross floor area;
3. When the expansion of the use is otherwise consistent with all other sections of this chapter;
4. And, when such expansion of the use eliminates an adverse effect or condition which is inconsistent with the MU-3 District or the approved plan for the area, and/or when such modification is determined to result in an improvement consistent with the objectives of the area and the total use of the site, and/or when such modification would lead to a more rapid implementation of the Comprehensive Plan and MU-3 District objectives while providing good aesthetics and functionality during the interim (time period between the nonconforming use and a conforming use of the property).

(D) *Nuisances.* In order to reasonably prevent and abate nuisances and to protect the public health, welfare, or safety, nothing in this chapter shall prevent the placing of a structure in safe conditions when said structure is declared unsafe by the building codes and standards of the city.

(Ord. 739, passed 8-18-2015)

§ 154.010 GENERAL REGULATIONS.

(A) *Development standards.* Development standards are established to encourage a high standard of development by providing assurance that land uses will be compatible. The standards are intended to prevent and eliminate conditions which depreciate property values, which cause blight or are detrimental to the environment. Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the design and performance standards. The applicant or owner shall supply data necessary to demonstrate such conformance. In order to assure compliance, the city may require the owner or operator of any permitted use to have made such investigations and/or tests as may be required to show adherence to the performance standards.

1. *Lot coverage and building setback.* The maximum lot coverage shall be determined by the design and development standards, including required open space/plaza areas, traffic sight distance, buffering/berming features and similar requirements of this chapter.

2. *Residential setback averaging, front setback.* Where at least 50% of the front footage of any block is built up with principal structures, the minimum front yard setback for new structures shall be the average setback of the existing principal structures on the block face or the normal setback requirement in the district, whichever is less, but no less than 20 feet.

3. *Association and covenants.* A neighborhood association may be required for some developments. Bylaws and covenants shall be provided as required by this chapter. The association and covenants shall provide for use, upkeep, maintenance and insurance for the common area and recreational facilities, private streets (including snow plowing, sweeping and resurfacing and associated lighting), monument sign and preservation of the open space.

4. *Yard measurements and regulations.* Measurements shall be taken from the nearest point of the building wall to the lot line in question.

5. *Non-encroachments.* The following shall not be encroachments on yard setback requirements:

(a) Cornices, canopies, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, eaves, gutters and the like, provided they do not extend more than two feet into a yard, except awnings and canopies, if located within the boundaries of the Downtown Design Manual, are subject to the provisions of the Downtown Design Manual.

(b) Bays and bay windows not to exceed an area of more than 20 square feet may extend into a front or rear yard four and one-half feet and into a side yard no more than two feet, provided the encroachment is no closer than four feet from all lot lines.

(c) A landing place or uncovered porch may extend into the required front yard or rear yard a distance not exceeding six feet, if the landing place or porch has its floor no higher than the entrance floor of the building, an open railing may be placed around such place.

(d) Decks, terraces, steps, stoops, ramps or similar structures, which do not extend more than six feet into a yard and which do not extend in elevation above the height of the ground floor level of the principal building, provided the extension is no closer than four feet from all lot lines.

(e) A wall, fence or hedge may occupy part of the required front, side or rear yard subject to meeting traffic sight distance requirements.

(f) In rear yards: balconies, breezeways, detached outdoor recreation shelters and recreational equipment.

6. *Residential enclosed pet area.* A fenced-in area "kennel" for a pet shall not be located between a house and an interior side lot line.

7. *Outdoor lighting.* All outdoor lighting shall be directed away from adjoining property and from the street unless globe lighting is used. Bare incandescent light bulbs shall not be permitted in view of adjacent property or the public right-of-way, except decorative holiday lights having 7.5 watts or less. No exterior lighting shall exceed 0.4 foot candles at the lot line. Yard lights shall not be closer than five feet from the property line, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

8. *Public waters.* No public water shall be used, filled, partially filled, dredged, altered, graded or otherwise disturbed without a permit from the city, watershed district and the state as may be required.

9. *Utility installations.* All on site utility installations shall be placed underground.

10. *Grading.* The moving of soil in an area in excess of 5,000 square feet or an amount in excess of 50 cubic yards requires a grading permit unless such activity is part of an approved building permit.

11. *Fences and walls.* Fences, walls and hedges may be erected, placed, or maintained in any yard along or adjacent to a lot line in accordance with the requirements of this section. The owner shall be responsible for properly locating all property lines before construction of any fence.

(a) All zoning districts.

i. Height and location. Fences and walls not exceeding a height of six and one-half feet may be erected anywhere on a lot, except in the required front yard where the maximum height shall not exceed three and one-half feet.

ii. Fences must be installed so that the more finished side faces the adjacent property. If the fence has posts on one side, the posts shall be placed on the inside side of the fence.

iii. Fences or walls shall comply with the vision clearance triangle requirements of § 154.010(F)(8)(a).

(b) Nonresidential or mixed-use districts.

i. Fences shall not be allowed, unless absolutely necessary for a functional reason and requires approval of the Zoning Administrator or when otherwise specifically allowed within the supplemental regulations. When allowed, only decorative fencing material shall be used such as painted wrought iron or anodized metal fencing.

(c) Residential districts.

i. Materials. Materials shall be compatible with the residential character of this district. Decorative wood and wrought iron fences are preferred. Prohibited materials are: chicken wire, barbed wire, plastic webbing or netting, snow fences and fences made of makeshift, flimsy materials or other materials which are made from paper, twine, rope, tin and the like (except when used during construction or for traffic control or police security).

12. *Storage of trash.*

(a) Residential uses. There shall be no front yard storage of trash or trash containers except in the 24 hour period prior to a scheduled pickup in residential districts.

(b) Nonresidential uses. Storage of trash in a principal building or in an accessory building shall be allowed.

13. *Boats, trailers, and recreational vehicles.* There shall be no front yard storage of boats, trailers or recreational vehicles on the grass or landscaped areas required by this chapter. Boats or recreational vehicles stored on hard surfaced areas required by this chapter and not required for off-street parking shall not exceed 21 feet in length.

14. *Noise.* The source sound level requirements shall apply at the property or zoning lines. Measurements may be made at any location for evaluation purposes.

(a) The source sound levels as stated below shall be the highest source levels permitted, whether or not such sound source is in the zoning district in question.

i. Day (7:00 a.m. to 10:00 p.m.) - an L50 of 60 dBA and an L10 of 65 dBA.

ii. Night (10:00 p.m. to 7:00 a.m.) - an L50 of 50 dBA and an L10 of 55 dBA.

(b) All sound levels originating in any development or property which contains one or more buildings and which is without property lines for each building shall not exceed the source requirements measured at the area of human activity, or if this is ill-defined, at any point on a line, all of whose points are equidistant from any two buildings.

(c) Noise sources shall reduce sound levels of noise in proportion to their contribution when the cumulative effect results in a violation and no specific noise source can be identified as a violation.

(d) Sound levels resulting from travel of motor vehicles on state and county highways and transit vehicles are exempt from these noise source requirements but no other sections of the city code relating to motor vehicles and similar sources.

15. *Odors.* Odors which are associated with toxic air pollution are regulated by the Minnesota Pollution Control Agency. Other odors are subject to the nuisance provisions of the city's code.

16. *Smoke, fumes, gases, dust and other emissions.* Such emissions must meet the regulations of the Minnesota Pollution Control Agency. Limits on the emission of dust must meet state and federal regulations. Avoidable amounts of dust to become airborne is not allowed.

17. *Hazards.* Every operation shall be carried on with reasonable precautions against fire and explosion hazards.

18. *Glare.* Glare, whether direct or reflected, such as from floodlights or high temperature processes and as differentiated from general illumination shall not be visible at any property line.

19. *Vibration.* Vibration shall not be discernible at any property line to the human sense of feeling. Additionally, no one shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby residential properties.

20. *Inoperable vehicles or motor vehicle parts.* No inoperable motor vehicle, or motor vehicle parts, shall be kept on any lot or yard for a period longer than one week without a permit from the City Manager.

21. *Pedestrian circulation.* Sidewalks or other designated pedestrian ways shall be clearly indicated and provided for the safety of pedestrians within nonresidential and mixed-use districts.

22. *Sidewalks and trails.* Complete plans shall be provided for proposed sidewalks and trails to serve parking, recreation and service areas within developments and to link to the city's system.

23. *Underground parking.* When appropriate, buildings are encouraged to provide for inside, usually underground, parking at a ratio of at least one space per dwelling unit within mixed-use districts.

24. *Bicycle storage.* When appropriate, buildings are encouraged to provide for bicycle storage in the building storage room or similar place of at least a ratio of one space per dwelling unit within mixed-use districts.

25. *Transit.* Developments are to take into account the needs for transit and the transit rider and related pedestrian ways. Development of transit facilities and transit plazas are to be furnished on a cooperative basis with participation from property owners, the city and metro transit. New express transit is proposed on Highway 36 with on-line stop(s) with the possibility of a transit station between/near Margaret Street and McKnight Road.

26. *Loading docks.* All loading docks shall be screened from view of adjacent property where abutting property is used or intended to be used for commercial or residential purposes. Access to such loading areas shall be adequate to provide proper maneuverability of the anticipated traffic, and such access shall not conflict with pedestrian circulation patterns and other uses of the property in the area. New loading docks shall be enclosed.

(B) *Usable open space.*

1. *Residential.*

- (a) Apartment. Each lot shall contain at least 250 square feet for each apartment unit.
- (b) Multiple family. Each lot shall contain at least 250 square feet of usable open space shall be provided for each unit.
- (c) Senior housing. Each lot shall contain at least 150 square feet of usable open space per resident.
- (d) Townhouse. Each lot shall contain at least 500 square feet of usable open space for each unit.

2. *Nonresidential.*

(a) Day nurseries and nursery schools. Shall provide 40 square feet of outside play space per pupil and such space shall be adequately fenced.

(b) Office/commercial/industrial. Each lot shall contain usable open space/plazas and shall not be less than 5% of the total lot area.

(C) *Density transfer.* Transferring density may be allowed when the purpose and result provide:

- 1. Preservation of natural features and site amenities, such as wooded areas, slopes, prairie vegetation and protection of desirable views;
- 2. Dedication of more than 11% of the land for usable public park or public sites, excluding wetlands;
- 3. Dedication to the city, or a public trust acceptable to the city, of land designated as park or preservation consistent with the city's Comprehensive Plan or approved area plans;
- 4. Such transfer shall be guaranteed through execution of appropriate covenants approved by the City Council, which shall

specify the density allowed to be transferred and the conditions under which the transfer is being allowed.

(D) *Supplemental regulations.* Supplemental regulations are established to address the unique characteristics of certain land uses. The standards and conditions listed for land uses in this chapter are applicable to permitted, conditional, and interim use permits, as specified for each zoning district, unless otherwise noted.

1. *Accessory buildings and structures.*

(a) *Size.* The total square feet of an accessory building shall not exceed 10% of the lot area, and in no case shall it exceed 1,000 square feet of gross floor area. The sum of all square footage for attached garages and detached garages shall not equal or exceed the finished livable floor area of the footprint (ground floor) of the principal structure to which it is an accessory.

(b) *Height.* Accessory buildings shall not exceed the height of the principal building. In no case, shall an accessory building exceed 15 feet in height or in the case of an accessory dwelling unit, then 20 feet shall be the maximum height allowed.

(c) *Location.* A detached garage or other accessory buildings shall be located in the side or rear yard.

(d) *Setbacks.* Detached garages other accessory buildings including storage sheds shall be setback a minimum of three feet from side and rear property lines or up to an easement line, but not on it, whichever is greater; and six feet from the principal structure. An accessory building shall be considered as part of a principal building if it is located less than six feet from the principal building. Vehicles parked in a driveway or other area are not allowed to extend into or encroach upon the alley or street right-of-way. An attached garage is considered part of the principal structure and must meet setback requirements for principal structures.

(e) *Corner lot.* A detached garage or other accessory buildings shall not be located closer than 20 feet to the side lot line adjacent to the street.

(f) *Number of structures.* No more than one accessory building shall be constructed on a lot, except that one additional storage shed may be allowed.

(g) *Time of construction.* 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 accessory.

(h) *Design.* The design shall be consistent with the primary building; exterior materials shall be a product that is similar, but not limited to identical product, in terms of appearance, color, and durability.

(i) *Multi-family uses.* Common walls for accessory buildings may be required where common walls will eliminate unsightly and hazardous areas.

(j) *Storage shed.* The total square feet of a storage shed shall contain a total of 200 square feet or less. The height shall be limited to 12 feet at the peak of a peaked roof or eight feet to the top of a flat roof. Windows will be allowed only on one wall.

2. *Accessory dwelling unit.*

(a) No more than one accessory dwelling unit may be located on a lot.

(b) The lot shall have a minimum area of 5,000 square feet.

(c) The lot shall have a minimum width of 60 feet.

(d) An attached accessory dwelling unit shall be part of the single-family dwelling on the same lot for the purpose of the bulk requirements of the district. Any secondary dwelling unit connected to the single-family dwelling is considered attached.

(e) A detached accessory dwelling unit shall be located only above a detached garage of the single-family dwelling on the same lot.

(f) A detached accessory dwelling unit shall be setback a minimum of ten feet from side and rear property lines or up to an easement line, but not on it whichever is greater.

(g) The height, lot area per dwelling unit, and usable open space requirements for detached accessory dwelling units shall be determined by the Zoning Administrator.

(h) The usable open space requirements for a detached accessory dwelling unit shall be 50% of the usable open space requirement in the district.

(i) The single-family dwelling on the lot shall be owner-occupied.

(j) The entryway to the accessory dwelling unit shall be connected to a street frontage with a paved walkway.

(k) The accessory dwelling unit shall have a separate entrance from the single-family dwelling.

3. *Adult uses.*

(a) Such establishments shall be licensed.

(b) An adult use shall not be allowed within 1,000 feet of another existing adult use.

(c) An adult use shall not be located within 500 feet of any residential district or property in a PUD that is or projected to include residential uses.

(d) An adult use shall not be located within 600 feet from the building to an existing school, religious institution, group day care facility or nursery school.

(e) An adult use shall not sell or dispense 3.2% malt liquor or intoxicating liquors, nor shall it be located within 400 feet of a building, which contains a business that sells or dispenses 3.2% malt liquor or intoxicating liquors.

(f) No adult use establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment which is prohibited by any ordinance of the City of North St. Paul, the laws of the State of Minnesota or the United States of America. Nothing in this chapter shall be construed to authorize or permit conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally or the exhibition, sale or distribution of specified material to minors.

(g) No adult use shall be conducted in any manner that permits persons on outside property not approved for adult use to perceive or observe any materials depicting, describing or related to "specified sexual activities" or "specified anatomical areas" by any visual or auditory media, including displays, decorations, signs, show windows, sound transmissions or other means;

(h) All adult uses shall prominently display a sign located within two feet of the door-opening device at the entrance of the adult-use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. Persons under 18 years of age shall not enter." Said sign shall have letters at least one inch and no more than two inches high;

(i) No person under the age of 18 shall be permitted access to material displayed or offered for sale or rent by an adult-use establishment;

(j) Adult mini-theaters are prohibited.

(k) The distance requirement shall be measured along a straight line from the nearest property lines of each use.

4. *Animal: boarding facility, kennel, shelter, day care, and grooming (commercial).*

(a) Outdoor dog runs or exercise pens shall be located at least 200 feet from a residential use or district.

(b) Any outdoor portion of an animal boarding facility, kennel, shelter, daycare, or grooming facility shall be screened from view from adjacent property by a solid fence, hedge or similar plant material not to exceed six and one-half feet in height.

(c) Facility owners shall submit written operating procedures, such as those recommended by the American Boarding and Kennel Association (ABKA) or the American Kennel Club (AKC). Such procedures, which shall be followed for the life of the business, must address the identification and correction of animal behavior that impacts surrounding uses, including excessive barking.

5. *Assisted living facility and/or memory care facility.*

(a) An appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the character of the neighborhood. The owner shall submit a Management Plan for the facility and a floor plan showing sleeping areas, emergency exits and bathrooms.

6. *Automobile body shop or automobile repair station.*

(a) Oils and grease. Make adequate provision for inside storage of all new and used petroleum products and other products, liquids or chemicals used in the operation.

(b) Inoperable vehicles. No inoperable vehicle shall be kept on the site longer than 45 days.

(c) Vehicle sales. The site shall not be used to sell vehicles unless a conditional use permit authorizing such use/sales has been granted.

(d) Fencing. Fencing may be required along with additional landscaping to screen the view of the use from adjacent properties.

7. *Automobile sales and rental.*

(a) The use shall not sell or trade exclusively in used merchandise, but shall have on the site at least 20% of its stock in new, unused vehicles.

(b) The sales lot and principal building shall be on one contiguous site.

(c) A solid fence or wall and hedges or similar plant type of six and one-half feet in height shall be erected and at least a five foot wide landscaped strip shall be provided along all property lines of the site to be used for the sales lot which abut residential districts.

(d) All paved areas shall be separated from all landscaped areas by concrete box curbs extending at least six inches in height above and below grade.

(e) The outside sales and display area shall not exceed four square feet for every one square foot of the principal building on the site.

8. *Automotive service station/convenience store.*

(a) Lot size. A service station lot size site shall have a minimum of 35,000 square feet, and the street footage shall be not less than 100 feet.

(b) Setbacks. No building, structure, canopy, gasoline pump, or storage tank shall be located within 25 feet of a residential zoning district.

(c) Pump islands. All pump islands, air dispensers and other service devices shall be installed at least 12 feet from the required setback yard line, and no display, servicing of vehicles, parking or dispensing of gasoline shall take place within the required yard setback. On sites where pump islands have been constructed at the required yard line, a landscaped area of eight feet will be installed in the required yard.

(d) Curbs. A concrete box curb extending not less than six inches above and below grade shall be located along all lot lines abutting a street and along the setback lines, except at approved ingress and egress points and along the outside edge of all driveways.

(e) Drainage. There shall be adequate drainage of the surface of the parking or paved area to a public storm sewer or to other approved storm water facilities. Plans for surfacing and drainage of all parking lots for 20 spaces or more or paved areas of 6,000 square feet or more shall be approved by the city.

(f) Fence. A fence of acceptable design not over six and one-half feet in height or under four feet which is at least 90% opaque shall be constructed along the property line when said use abuts property residentially used or in one of the residential districts; said fence shall be adequately maintained. Application of this provision shall not require a fence within the required front yard.

(g) Entire site surfaces. The entire site other than that taken up by structure or landscaping and shall be surfaced with a dustless all weather material capable of carrying a load of 2,000 pounds per square foot. (Normally a two inch blacktop surfacing on a four inch base or five inches of Portland cement will meet this requirement.)

(h) Outside sale or display. No outside sale or display shall be permitted except gasoline and other goods consumed in the normal operation of a car limited to the following kinds of products: oil, gasoline and oil additives, windshield cleaner, windshield wipers, tires and batteries. No products shall be sold or displayed in any required yard, nor shall the total display area occupy more than 150 square feet in area or be more than five feet in height. No other vehicular parts and non-automobile oriented goods shall be displayed or sold outside, nor shall any automotive service station site be used for the storage and sale or rental of automobiles, trucks, campers, boats, trailers, unlicensed or partially dismantled vehicles or similar vehicles and products, unless a permit under this chapter is approved.

(i) Canopies. Any canopy and canopy support system shall be constructed using architectural design and materials that are compatible with the principal structure.

(j) Public address system. No public address system shall be audible from any property located in a residential district.

(k) Trash or junk materials. No trash or junk materials shall be stored outside unless completely screened from view and stored

in a closed metal container; however, such storage shall not take place within the required setback area.

9. *Bank, financial institutions.*

(a) The drive-in service shall be completely integrated into the principal building, shall not be an appendage to it and shall use the same quality materials as the principal building.

(b) Stacking area for the drive-in shall be subordinate to the primary access for vehicles and pedestrians.

10. *Bed and breakfast establishment.*

(a) A maximum of four rooms shall be rented.

(b) The establishment shall have a valid permit from the Health Department.

(c) The only meal that may be served is breakfast to registered guests.

(d) No establishment within a residential district shall be located within 500 feet of any other such establishment, measured along a straight line from the nearest property lines of each use.

(e) Length of stay shall not exceed 21 consecutive days for each registered guest.

11. *Bulk storage (liquid).*

(a) If allowed as an accessory use to a principal use, all existing above ground liquid (oil, gasoline, fertilizer, chemicals and similar materials) storage tanks or structures having a capacity in excess of 300 gallons shall be inspected by the city. The Council may require diking around said tanks or structures, suitably sealed to hold a leakage capacity equal to 115% of the capacity of the tank or structure. Any existing tank or structure that, in the opinion of the city, constitutes a hazard to the public health or safety shall discontinue operations, and if said conditions or structures hereafter erected, constructed or stored shall be inspected by the city in order to assure against fire, explosion, water contamination and other hazards. Special requirements may be required by the city in the case of storage of mobile tanks containing such liquids.

12. *Car wash.*

(a) Parking. A minimum 35 foot wide landscaped yard shall be required and maintained between any public street right-of-way and stacking areas or parking lots (including maneuvering area). A minimum side and rear landscaped yard of 15 feet shall be maintained between the parking lot and any lot line adjacent to commercial, industrial, or residential use.

(b) Screening. Solid screening shall be erected and maintained alongside rear yards. The screening required by this section shall consist of a solid fence or wall not less than six and one-half feet in height and/or such additional or equivalent visual barriers, including plantings, as required and approved by the city. Vacuuming facilities shall not be located along public streets and shall be completely screened from public streets and adjacent property.

(c) Curbs. Interior curbs shall be constructed within the property lines to separate driving and parking surfaces from landscaped areas. Interior curbs required by this section shall be a normal box curb extending six inches above and below the grade.

(d) Surfacing. The entire site on which the car wash is located other than devoted to buildings and structures and landscaped areas shall be paved, blacktopped or dustless material and maintained to control dust, drainage and such paving or blacktopping shall be subject to approval by the city.

13. *Communication structures.*

(a) Residential districts. Satellite dishes, antennae and similar devices over three feet in width, length or diameter shall not be allowed in the required front yard nor within 12 feet of the side lot line or rear lot line. Amateur radio support structures (towers) shall not exceed a height above ground level of 70 feet. They shall be mounted on the roof of a dwelling or other building located in the rear yard unless there is not sufficient space to erect them in those locations. They shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

(b) Mixed-use districts.

i. Location.

A. The site shall be screened from the public by visual/physical barriers: berms, trees and the like so as to be visually

unobtrusive.

B. Not located closer than 250 feet from residential structures.

C. The tower on any antenna shall not be located closer than a minimum of one and one-half times its collapse radius from all property lines of the site on which it is located.

D. No freestanding tower or antenna shall be closer than one and one-half mile from another free- standing tower or antenna.

ii. Guy wires. Guy wires are prohibited.

iii. Height. The height shall not exceed 100 feet.

iv. Structure. All buildings shall meet architectural control provisions.

v. Noninterference. The facility and operator of the facility shall not interfere with local television, local radio or other forms of local communication. A noninterference agreement shall be required as a condition of approval.

vi. Signs. Signs are not allowed on the tower or antenna, except information signs required by the state or federal government.

vii. Lighting. Lighting of the tower or antenna is prohibited except that which is required to meet a Federal Aviation Agency or state requirement.

viii. Design. Towers and antennae may be allowed on buildings if integrated into the design of the building, or, if less than 20 feet high, they may be located on a rooftop having parapets or other features which screen a portion of the line of site view of the tower or the antenna. An antenna may be located inside a belfry, cupola or similar structure. Freestanding towers or antennae must be a monopole design.

ix. Structural standards. The structural integrity of the facility must be approved by a licensed and qualified structural engineer, and it must meet all structural standards of the Uniform Building Code and standards of all other agencies having review power for the structure.

x. Cooperative or joint use.

A. To reduce clutter and to protect community aesthetics, an applicant must:

1. Use an existing tower, antenna or structure that can reasonably serve as a site/facility for the applicant or provide full documentation as to why such other facilities cannot be used.

2. Allow the requested facility to be a co-location and enter into an agreement with the city allowing such use.

B. For joint use, the facility shall be designed structurally, electrically and in all other respects to accommodate other comparable facilities for at least two other users.

xi. Removal. Co-location agreements shall provide for removal of unused or obsolete facilities no less than six months after being discontinued unless the facility is on city property, in which case the facilities and all its appurtenances shall be removed in accordance with the provisions of the lease.

xii. City property facilities. The city may consider allowing its property and structures to be used for communication towers and antennae, but only when:

A. The use will not result in the increase of risk of denigrating the city's facility or the service provided at the facility, for example, supply residents and businesses with electricity, water, police and fire protection, park open space and recreation or other services.

B. There is sufficient room on an existing structure or on ground to accommodate the facility.

C. The facility will not be harmful to those working or present in the area.

D. The use and facilities are compatible with the city's use and use of adjacent property.

E. The tower or antenna will not increase the city maintenance, operating or capital cost, nor will it increase the city's risk of liability.

F. The tower and antenna will not have an adverse impact on the surrounding property.

G. The proponent/applicant is willing to enter into a lease agreement with the city which is at least equitable for the city, considering comparable rates, risks, potential expenses, nuisance factors and other relevant consideration.

H. The applicant provides the city with liability insurance in an amount specified by the city and a letter of credit or other security deemed appropriate by the city to cover site landscaping and related improvements and removal of the tower and antenna.

I. Any violation of this section or the agreement that could endanger the health or safety of the public is cause for the city to take action to remedy the condition.

14. *Day care center, day nursery.*

(a) A fence of acceptable design not over six and one-half feet in height may be required to be constructed along the property line when said use abuts property residentially used or in one of the residential districts; said fence shall be adequately maintained.

15. *Drive-in or self-service business.*

(a) Any drive-in or self-service type business serving food or beverages shall also provide, in addition to vehicular service areas, in-door food and beverage service seating area.

(b) The hours of operation shall be a condition for the granting of any drive-in business use.

16. Essential service structure, including but not limited to buildings such as telephone exchange substations, booster or pressure regulating stations, wells and pumping stations and elevated tanks.

(a) To the extent appropriate and possible the site and building shall meet the standards for a single-family detached dwelling.

17. *Garden center or greenhouse, nursery.*

(a) In the MU-1 District, there shall be no exterior storage of bulk materials such as dirt, sand, gravel and building materials.

(b) In all other districts, bulk materials shall not be stored within the front yard setback and shall meet standards for outdoor storage and display.

18. *Golf course.*

(a) Club houses and maintenance buildings shall be located a minimum of 300 feet from any residential district.

19. *Home occupation.*

(a) *Purpose.* Home occupation standards and procedures are established to permit the conduct of home occupation activities while preserving the character of residential neighborhoods, promoting small businesses, and protecting the health, safety and welfare of those neighborhoods.

(b) *Definition.* **HOME OCCUPATION** is:

i. Work for profit, performed on residential property, by the property owner, renter, occupier, or houseguest; or

ii. Work for profit performed away from residential property, by the property owner, renter, occupier, or houseguest, where the residential property is being used as a home base, place of operation, office, headquarters, or similar, or is being used for the storage or repair of items or equipment used in the course of said work.

(c) *Level 1 home occupations.* Level 1 home occupations are those which have no potential neighborhood impacts. Level 1 home occupations are a permitted use. Level 1 home occupations may include, but are not strictly limited to:

i. Art studio;

ii. Dressmaking;

iii. Barber shops;

iv. Beauty shops;

v. Secretarial services;

vi. Foster care;

- vii. Professional offices such as legal, accounting, insurance or computer technician; and
- viii. Musical, dancing, and other instructions which consist of no more than two pupils at a time.

(d) *Level 2 home occupations.* Level 2 home occupations are those which have potential neighborhood impacts. A level 2 home occupation requires approval of the City Council. An interim use permit shall be obtained by any person operating a level 2 home occupation. Level 2 home occupations may include, but are not strictly limited to:

- i. Family day care;
- ii. Contractors;
- iii. Small engine repair;
- iv. Equipment repair;
- v. Building trades; and
- vi. Heating, plumbing, or air-conditioning services.

vii. In cases where it is unclear whether a home occupation should be classified as level 1 or level 2, the Zoning Administrator shall make such a determination subject to City Council confirmation if requested by the operator of the home occupation.

(e) *General provisions.* All home occupations shall be subject to the following standards:

- i. A home occupation required to have a state license shall show proof of this license to the city each year and shall maintain said license at all times while the home occupation is occurring.
- ii. A home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.
- iii. A non-illuminated nameplate a maximum of two square feet in area may be placed on the front façade of the principal structure. Otherwise, there shall be no signage, display, or advertisement visible from the exterior of the lot related to the home occupation.
- iv. Home occupations shall not create a parking and loading demand in excess of that which can be accommodated in an existing driveway. Such occupation does not generate more than two vehicles at one time.
- v. No interior or exterior alterations shall be permitted and no construction features shall be permitted which are not customarily found in a dwelling.
- vi. No home occupation shall produce light, glare, noise, odor, dust or vibration discernable beyond the property line that will in any way have an objectionable effect upon adjacent or nearby property.
- vii. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- viii. There shall be no exterior storage of equipment or materials used in the home occupation, except that functioning, personal automobiles that are used by the owner of the home occupation may be parked on the site.
- ix. Licensed tattoo establishments are not allowed as a home occupation.

(f) *Existing nonconforming home occupations.* Existing home occupations lawfully existing on the effective date of this section may continue as non-conforming uses. Any existing home occupation that is discontinued for a period of more than one year shall be brought into conformity with the provisions of this section prior to re-institution.

(g) *Inspection.* The city hereby reserves the right, upon issuing any level 2 interim use permit, to inspect the premises in which the occupation is being conducted to ensure compliance and the provisions of this section or any conditions additionally imposed.

(h) *Violations.* Any home occupation found to be in violation of this section shall be served with a notice from the Zoning Administrator. If the violation is not corrected within ten days, the approval for the home occupation shall be revoked.

(i) *Regulations.* All occupations conducted in the home shall comply with the provisions of this section, as well as applicable local, state, and federal laws as well as § 98.18 Nuisances Affecting Peace and Safety.

20. *Hospital.*

(a) An appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the character of the neighborhood.

21. *Indoor recreation.*

(a) The facility shall be located at least 50 feet from the boundary of any residential use or district.

22. *Institutions.*

(a) No structure shall be located within 50 feet of an adjacent lot located in a residential district.

(b) No parking lot of six or more spaces shall be located within 20 feet of an adjacent lot located in a residential district.

(c) No access shall be located within 30 feet of a corner.

23. *Limited production and processing.*

(a) Odors, noise, vibration, light, glare and other potential side effects of manufacturing processes shall not be discernable beyond the property line.

24. *Live/work unit.*

(a) The work space component shall be located on the first floor or basement of the building, with an entrance facing the primary abutting public street.

(b) The dwelling unit component shall be located above or behind the work space, and maintain a separate entrance located on the front or side façade and accessible from the primary abutting public street.

(c) The office or business component of the unit shall not exceed 50% of the total gross floor area of the unit.

(d) The size and nature of the work space shall be limited so that the building type is governed by residential building codes.

(e) The business component of the building may include offices, small service establishments, homecrafts which are typically considered accessory to a dwelling unit, or limited retailing associated with fine arts, crafts, or personal services. The business component shall be limited to those uses otherwise permitted in the district, which do not require a separation from residentially zoned or occupied property, or other protected use. It shall not include a wholesale business, a manufacturing business, a commercial food service requiring a license or auto service or repair for any vehicles other than those registered to residents of the property.

25. *Lodge, private club, reception hall.*

(a) Service of food and liquor allowed when licensed.

26. *Municipal administrative building, fire station or other public safety or service facilities.*

(a) To the extent appropriate and possible, the site and building plans shall meet the standards for an office as provided in this chapter.

27. *Multiple family dwelling.*

(a) Access. No access shall be located within 50 feet of a public street corner.

(b) Drainage. Drainage shall be provided as required consistent with the city and Watershed District requirements. Any required NURP ponds shall be integrated into the overall plan and proper easement and maintenance agreements shall be provided.

(c) Projecting air conditioning and heating units. Air conditioning or heating units shall not project through exterior walls or windows unless located behind a balcony and screened from view.

(d) Transformers. If located outside, shall be screened from view.

(e) Utilities. Building utility services and structures such as meters, transformers, refuse containers, including dumpsters, ancillary equipment and the like shall be either located inside the principal building, inside an accessory building, or, where allowed, be outside and entirely screened from off-site views. For new buildings, all utilities shall be underground.

(f) Compliance. No permit shall be issued allowing construction of a new building, the moving of an existing building into the

city, nor shall any existing building be expanded more than 2,000 square feet or significantly structurally altered on the exterior unless it meets the requirements of this chapter and is approved.

28. *Office.*

(a) Landscaping. All areas within 24 feet of the building shall be landscaped except for driveways, connecting walks and plazas. Off-street parking shall be separated by a landscaped strip where it abuts a lot line, except along an alley where a reduction may be allowed.

29. *Outdoor sales and display.*

(a) Limitation. No open sales lot shall exist unless the same use occupies space in a principal building on the same lot.

(b) Size. The size of the open sales lot shall not be greater than four times the square footage the use has within the building on the same property.

(c) Screening. The site of the open sales lot must be adequately screened to minimize impact on adjacent properties.

30. *Outdoor recreation, commercial.*

(a) A minimum of 25 feet setback landscaped area shall be provided along the perimeter of the site wherever it abuts a residential district.

(b) If the use will be available to the general public, an arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate shall serve the site. Ease of access to the site by vehicles, transit, bicycles, and pedestrians shall be considered.

(c) The site shall be designed in such a way as to minimize the effects of lighting and noise on surrounding properties. Hours of operation may be restricted and noise and lighting limits imposed.

(d) An appropriate transition area between the use and adjacent properties may be required, using landscaping, screening, and other site improvements.

31. *Outdoor seating, commercial.*

(a) Primary access to the area shall be from within the establishment.

(b) Hours of operation may be restricted and noise and lighting limits imposed.

(c) An appropriate transition area between the use and adjacent properties may be required, using landscaping, screening, and other site improvements.

32. *Outdoor storage.*

(a) Outdoor storage shall be located outside of the front yard setback and shall not be placed between the principal building and the abutting street.

(b) Outdoor storage shall be completely screened from any adjacent street, sidewalk, public walkway, or public park.

(c) Outdoor storage shall be screened from abutting residential uses with a wall, solid fencing, evergreen hedge, or equivalent material. All screening shall be six feet in height. Screening along district boundaries, where present, may provide all or part of the required screening.

33. *Portable storage units.*

(a) A maximum of two portable storage units, not exceeding a cumulative gross floor area of 250 square feet shall be allowed for up to 90 consecutive days within a calendar year when part of an active building permit.

(b) When not part of an active building permit, such use is allowed for no more than 30 days per calendar year.

(c) The portable storage unit(s) may not be located within the front or side yard setbacks unless located in a driveway.

(d) This use is allowed for temporary storage of household goods in residential areas.

34. *Rain garden.*

(a) Purpose. Rain gardens are an effective mechanism for stormwater management. Rain gardens facilitate the infiltration of stormwater into the ground thereby reducing the flow of stormwater into storm drains and maintaining supplies for drinking water, irrigation, and dry-weather flow to streams, wetlands and ponds. The infiltration process removes pollutants from the stormwater and contributes to the health of the city's lakes, streams, ponds and wetlands. A number of benefits are associated with the use of rain gardens, many of which are tied to established community goals involving the promotion of ecological health, public safety, quality of life and responsible resource management, and include:

- i. Increased habitat for beneficial insects, butterflies and birds.
- ii. Reduced risk of flooding.
- iii. Provision of aesthetically pleasing landscapes.
- iv. Alleviation of the burden placed on existing and costly stormwater infrastructure.

(b) Eligibility.

- i. Zoning district. Rain gardens shall be allowed in all zoning districts.
- ii. Suitability. All parcels may not be suitable for a rain garden due to varying soil composition and parcel elevations within the city.

(c) Construction, maintenance and functionality.

- i. Construction. Proper construction is essential to the effectiveness of the rain garden as a mechanism for stormwater management.
- ii. Maintenance. To ensure the parcel and the city continue to receive the benefits provided by rain gardens, regular maintenance is required. Maintenance is defined as removal of all non-approved vegetation and lack of visible sedimentation.
- iii. Functionality. A properly constructed, well maintained rain garden is expected to function as intended. Functionality is defined by the absence of standing water in the rain garden within 48 hours of a rain event.

(d) Permit. To ensure the initial construction and ongoing maintenance of the rain garden is performed satisfactorily, a permit shall be required for the operation of rain gardens located in the right-of-way and on private property.

i. Permit requirements. The rain garden permit application shall consist of the following:

A. Documentation. Correspondence with and funds received from the Watershed District(s) to support the construction of the rain garden shall be documented.

B. Construction plan. An annotated illustration including the following shall be provided:

1. Context map. Depiction of the site in proximity to surrounding features.
2. Right-of-way. If the proposed rain garden is located in the right-of way, the context map shall illustrate the site relative to the street, sidewalk and curb, and the lot owned by the applicant.
3. Private property. If the proposed rain garden is located on private property, the context map shall illustrate the site relative to the principal structure on the lot and other impervious surfaces.
4. The proposed dimensions of the rain garden including length, width and depth.
5. The existing slope of the site.
6. The location of above ground and/or underground public and/or private utilities.

C. Plant species. A list of all plant species proposed for the rain garden.

D. A permit will not be required if the rain garden is under ten square feet and the applicant has coordinated with the Watershed District.

ii. Maintenance plan. Documentation of how and by whom the rain garden will be maintained.

iii. Fees. The applicant shall pay all costs incurred by the city for the review of an application. The applicant shall submit an escrow to the city as established by City Council at the time of application. Under no condition shall the fee be refunded or waived for

failure of the city to approve the application.

iv. Right-of-way permit. Rain gardens within the right-of-way shall require a right-of-way permit (See Chapter 94, Streets and Sidewalks, Right-of-Way Management).

(e) Process.

i. Submittals. The applicant shall submit a completed permit application to the city for review.

ii. Completeness review. No application is complete unless all of the required information is included and all application fees have been paid. The city may refuse to accept an incomplete application.

iii. Notification. The city shall notify the applicant of their determination upon review.

A. Approval. The applicant may commence construction upon receipt of permit approval.

B. Denial. The applicant may be eligible to reapply upon receipt of permit denial.

iv. Compliant. Construction of the rain garden must comply with the approved permit when required.

v. Construction. The applicant shall notify the city upon completion of construction.

vi. Site visit. City staff shall perform an inspection of the rain garden upon completion of construction to ensure compliance with the permit.

vii. Violation. In the event the applicant violates any of the agreement or conditions set forth in the permit the city shall have the authority to revoke said permit. In the event of a rain garden nuisance, the city shall have the authority to repair the rain garden at the owner's expense.

viii. Duration. A rain garden permit shall remain in effect as long as the conditions agreed upon are observed.

ix. Reapplication. If necessary, the applicant may be eligible to resubmit an application.

35. *Residential pools and spas.*

(a) A site plan indicating the following: location, type and size of the proposed pool, location of fencing, house, garage and other improvements on the lot; location of structures on all adjacent lots; location of filter unit, pump and wiring indicating the type of such units; location of back- flush and drainage outlets; grading plan, finished elevations and final treatment (decking, landscaping and the like) around the pool or spa; location of existing overhead or underground wiring, utility easements, trees and similar features; location of any water heating unit.

(b) Pools and spas shall not be located within ten feet of any side or rear lot nor within six feet of any principal structure or frost footing. Pools shall not be located within any required front yard.

(c) Pools and spas shall not be located beneath overhead utility lines nor over underground utility lines of any type.

(d) Pools and spas shall not be located within any private or public utility, walkway, drainage or other easement.

(e) The filter unit, pump, heating unit and any other noise-making mechanical equipment shall be located at least 20 feet from any adjacent or nearby residential structure and not closer than ten feet to any lot line.

(f) To the extent feasible, back flush water or water from pool or spa drainage shall be directed onto the owner's property or into approved public drainage ways. Water shall not drain onto adjacent or nearby private land or into sanitary sewer.

(g) A structure or safety fence at least four feet in height shall completely enclose the pool.

(h) In the case of in ground pools, the necessary precautions shall be taken during the construction to:

i. Avoid damage, hazards or inconvenience to adjacent or nearby property.

ii. Take proper care in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property.

(i) All access for construction shall be over the owner's land, and due care shall be taken to avoid damage to public streets and adjacent private or public property.

(j) All wiring, installation of heating units and pipes, grading, and all other installations and construction shall be subject to

inspection.

(k) Nuisances such as undue noise, spillover lighting on adjacent property, health and safety hazards, damage to nearby vegetation and the like shall not be permitted.

(l) Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection.

36. *Retail sales and service uses.*

(a) Landscaping. All areas within 24 feet of the building shall be landscaped except for driveways, connecting walks and plazas. Off-street parking shall be separated by a landscaped strip where it abuts a lot line, except along an alley where a reduction may be allowed.

(b) Parking. No off-street parking shall be located within 12 feet of a front, rear or corner lot line nor within six feet of an interior side lot line.

37. *Schools, public and private.*

(a) A transition area between the use and adjacent properties may be required, using landscaping, screening, and other site improvements.

38. *Senior housing/senior housing with services.*

(a) Access. No access shall be located within 50 feet of a public street corner.

(b) Drainage. Drainage shall be provided as required consistent with the city and watershed district requirements. Any required NURP ponds shall be integrated into the overall plan and proper easement and maintenance agreements shall be provided.

(c) Projecting air conditioning and heating units. Air conditioning or heating units shall not project through exterior walls or windows unless located behind a balcony and screened from view.

(d) Transformers. If located outside, shall be screened from view.

(e) Utilities. Building utility services and structures such as meters, transformers, refuse containers, including dumpsters, ancillary equipment and the like shall be either located inside the principal building, inside an accessory building, or, where allowed, be outside and entirely screened from off-site views. For new buildings, all utilities shall be underground.

(f) Compliance. No permit shall be issued allowing construction of a new building, the moving of an existing building into the city, nor shall any existing building be expanded more than 2,000 square feet or significantly structurally altered on the exterior unless it meets the requirements of this chapter and is approved.

(g) Affordability and senior citizen housing. If a portion or all of the units are proposed as affordable housing or senior citizen housing, as defined in this chapter, and considerations are made for this by the city in the review and approval process, the developer (proponent for the development) must provide a guarantee through covenants and association documents which guarantee such use to the satisfaction of the city. The city shall be a third party to the covenant, if the city so desires. Such covenants shall be for a minimum of 25 years, or the term of the mortgage, whichever is longer.

39. *Solar energy systems.*

(a) A plan shall be submitted showing the proposed location of the solar or wind energy system on the lot, the design of the solar or wind energy system, the location of improvements on adjoining lots, as well as landscaping on the lot and adjoining lots that impacts the location of the solar or wind energy system. Additional materials may be required.

(b) The plan shall be approved by the Community Development Department prior to the installation of the energy system. Any conditions or restrictions placed on the energy system shall be limited to those that serve to preserve or protect the public health, safety, or do not significantly increase the cost, or decrease the efficiency of the system. Conditions or restrictions that allow for an alternative system of comparable cost and efficiency may also be imposed.

40. *Special infill housing.*

(a) The parcel must be within 10% of meeting the conventional minimum lot width and lot area of the zoning district.

(b) Proposed houses must be of quality design, utilize high quality materials and are governed by a superior development plan with respect to design, orientation and location of the house and any accessory garages and building, the location of the driveway,

required parking, landscaping, accessory buildings, if any, and other factors and features relevant to the site development and adjacent property.

(c) Due regard has been given to adjacent property.

41. *State licensed residential facility (six or fewer persons).*

(a) The design and development standards for this use are the same as single-family detached dwellings.

42. *Temporary buildings for storage of construction materials and equipment.*

(a) Buildings must be located on the same zoning lot as the project under construction, and shall be removed within 30 days following completion of construction.

43. *Temporary outdoor events.*

(a) Events include, but not limited to: Christmas tree sales, pumpkin sales, church, neighborhood or community events, traveling carnivals, and promotional events.

(b) No event shall last more than 180 days per calendar year.

(c) Any event that lasts for more than 45 days requires a conditional use permit.

44. *Townhouse dwelling.*

(a) Access. Each townhouse unit shall have direct vehicle access from the garage and driveway to a public road or to an improved private road meeting the requirements of the city.

(b) Drainage. Drainage shall be provided as required consistent with the city and Watershed District requirements. Any required NURP ponds shall be integrated into the overall plan and proper easement and maintenance agreements shall be provided.

(c) Projecting air conditioning and heating units. Air conditioning or heating units shall not project through exterior walls or windows unless located behind a balcony and screened from view.

(d) Transformers. If located outside, shall be screened from view.

(e) Utilities. Building utility services and structures such as meters, transformers, refuse containers, including dumpsters, ancillary equipment and the like shall be either located inside the principal building, inside an accessory building, or, where allowed, be outside and entirely screened from off-site views. For new buildings, all utilities shall be underground.

(f) Public roads. Each townhouse development shall have direct vehicle access to a public road.

(g) Guest parking. Off-street parking areas for guests must be considered for each development. In instances where the length and width of the driveway and the street are not adequate for parking, a separate parking bay or parking lot might be required.

(h) Compliance. No permit shall be issued allowing construction of a new building, the moving of an existing building into the city, nor shall any existing building be expanded more than 2,000 square feet or significantly structurally altered on the exterior unless it meets the requirements of this chapter and is approved.

45. *Veterinary clinic, animal hospital.*

(a) All activity shall take place within completely enclosed buildings with soundproofing and odor control.

46. *Warehousing/storage.*

(a) Space shall not exceed more than 60% of principal building.

47. *Wind energy systems.*

(a) A plan shall be submitted showing the proposed location of the solar or wind energy system on the lot, the design of the solar or wind energy system, the location of improvements on adjoining lots, as well as landscaping on the lot and adjoining lots that impacts the location of the solar or wind energy system. Additional materials may be required.

(b) The plan shall be approved by the Community Development Department prior to the installation of the energy system. Any conditions or restrictions placed on the energy system shall be limited to those that serve to preserve or protect the public health, safety, or do not significantly increase the cost, or decrease the efficiency of the system. Conditions or restrictions that allow for an

alternative system of comparable cost and efficiency may also be imposed.

48. *Yard sales.*

- (a) A yard sale shall not exceed four days in duration, and no more than one sale shall be held in any three month period.

49. *Body art establishment.*

(a) *Purpose.* Body art establishment standards and procedures are established to protect the health, safety and general welfare of the city through regulation of body art establishments.

(b) *Objectives.* The general objectives are:

- i. To prevent disease transmission;
- ii. To correct and prevent conditions that may adversely affect persons utilizing body art establishments;
- iii. To provide standards for the design, construction, operation, and maintenance of body art establishments; and
- iv. To meet consumer expectations of the safety of body art establishments.

(c) *Scope.* These regulations shall apply to all body art establishments where tattooing and body piercing are conducted.

(d) *Incorporation by reference.* M.S. 146B is incorporated herein by reference as may be amended.

(e) *Prohibitions.* No individual shall operate a temporary body art establishment.

(f) *License required.* No person shall own or operate a body art establishment without a state license.

(g) *Inspection required.* The Minnesota State Health Department shall inspect each body art establishment.

(h) *Violations.* Any body art establishment found to be in violation of this section, the operator(s) or technician(s) may be ordered to discontinue all operations of the body art establishment. Body art establishments shall only reopen with permission from the Minnesota State Health Department.

(E) *Architectural requirements.*

1. *Purpose.* The purpose of this section is to protect and preserve property values and the city's tax base, provide for the general welfare of the city and establish reasonable development standards for functional and aesthetic aspects of buildings and structures. Buildings shall be designed and consist of materials to ensure compatibility and architectural quality within their setting and to enhance the community appeal and image. All buildings and structures and remodeling of either existing or new buildings shall take into account compatibility related to architectural quality and mass of the structures to be constructed. Elements of compatibility include, but are not limited to: building form, mass, height and bulk; fenestration, exterior materials and their appearance, color and durability; setbacks; landscaping, exterior lighting and site improvements.

2. *Applicability.*

(a) Nonresidential and mixed-use development. No permit shall be issued allowing construction of a new building, the moving of an existing building into the city, nor shall any existing building be expanded more than 1,000 square feet or significantly structurally altered on the exterior unless it meets the requirements of this section and is approved.

(b) Residential development. No permit shall be issued allowing construction of a new building, the moving of an existing building into the city, nor shall any existing building be expanded more than 300 square feet or significantly structurally altered on the exterior unless it meets the requirements of this chapter.

3. *General requirements.* In all districts, buildings and structures must comply with the following:

(a) Equipment and service area screening. If an outdoor storage, service or loading area is visible from adjacent residential uses or an abutting public street or public walkway, it shall be screened by a decorative fence, wall or screening of plant material at least six feet in height. Fences and walls shall be architecturally compatible with the primary structure.

(b) Utilities. Building utility services and structures such as meters, transformers, refuse containers, including dumpsters, ancillary equipment and the like shall be either located inside the principal building, inside an accessory building, or, where outside be entirely screened from off-site views. For new buildings, all utilities shall be underground.

(c) Screening of rooftop equipment. All rooftop equipment, with the exception of solar and wind equipment, shall be screened

from view from adjacent streets and public rights-of-way. Rooftop equipment shall be screened from view from adjacent buildings to the extent possible.

i. The equipment shall be within an enclosure. This structure shall be set back a distance of one and one-half times its height from any primary façade fronting a public street.

A. Screens shall be of durable, permanent materials (not including wood) that are compatible with the primary building materials.

B. Screening shall be constructed to a height of at least one foot above the height of the equipment.

ii. Exterior. Exterior mechanical equipment such as ductwork shall not be located on primary building facades.

(d) Accessory buildings. Exterior building finishes and architectural design of accessory buildings, if allowed, shall be similar to the principal building.

(e) Pedestrian ways. Buildings shall be designed with proper provision and orientation for a pedestrian system to serve and link development.

(f) Pedestrian-oriented design. Building designs are encouraged to make the street enjoyable, visually interesting and comfortable. Individual buildings should be integrated with the streetscape to bring activity in the building in direct contact with the people on the street.

(g) Protection of views. Buildings shall be designed and oriented so as not to detract from one another or to unduly restrict views to open spaces, plazas and vistas.

4. *Architectural control.* In all districts, buildings and structures must comply with the following:

(a) Single-family dwelling.

i. Shall be designed to consist of exterior materials compatible with residential development in the area with due regard to architectural quality and the massing of structures.

(b) Two-family dwelling, townhouse dwelling and modular housing.

i. Shall be designed to consist of exterior materials compatible with residential development in the area with due regard to architectural quality and the massing of structures.

ii. Number of units. There shall be no more than five townhouse units attached in any one group or building. For unique designs involving special circumstances, a greater number may be allowed, provided views, windows (in at least three directions for each unit), privacy and line of sight are preserved in the design.

iii. Modulation, length. The building and units shall be modulated to provide interest.

iv. Diversity. Townhouse groupings shall provide diversity in terms of size, type and building orientation and form.

v. Equipment. All building equipment shall be hidden from view. Building vents and chimneys shall consist of similar materials to the building roof and the sides of the building.

(c) Multiple family dwelling.

i. Shall be designed to consist of exterior materials compatible with residential development in the area with due regard to architectural quality and the massing of structures, and shall be designed with suitable fenestration.

ii. Roof type. Roof style shall be gable or hip roof. Flat roofs are discouraged and may not be appropriate.

(d) Nonresidential and mixed-use buildings. The following standards are applicable after the effective date of this chapter to all new buildings and major expansions (50% or more of the building floor area). These standards shall apply only to the portion of the building or site that is undergoing alteration. Although, all buildings and structures and remodeling of either existing or new buildings shall take into account compatibility related to architectural quality and mass of the structures to be constructed.

i. Primary building entrances on all new buildings are encouraged to be oriented to the primary abutting public street. The entrance shall have a functional door. Additional secondary entrances may be oriented to a secondary street or parking area. Entries shall be clearly visible and identifiable from the street, and delineated with elements such as roof overhangs, recessed entries, landscaping, or similar design features. Barrier-free entrances are required.

ii. Façade articulation. Consistent with the design of traditional storefront buildings, new buildings of more than 40 feet in width shall be divided into smaller increments, through articulation of the façade. This can be achieved through combinations of the following techniques, and others that may meet the intent of this section.

A. Façade modulation. Stepping back or extending forward a portion of the façade.

B. Vertical divisions using different textures or materials (although materials shall be drawn from a common palette).

C. Division into storefronts, with separate display windows and entrances.

D. Variation in roof lines by alternating dormers, stepped roofs, gables, or other roof elements to reinforce the modulation or articulation interval. (see FIGURE 21)

E. Arcades, awnings, and window bays at intervals equal to the articulation interval. (see FIGURE 22)

iii. Design of street-facing facades. No blank walls shall be permitted to face the public street, sidewalks, or other public spaces such as plazas. Elements such as windows, doors, columns, changes in material, and similar details shall be used to add visual interest.

iv. Door and/or window openings.

A. For all buildings.

1. Glass on windows and doors shall be clear or slightly tinted, allowing views into and out of the interior. Spandrel glass may be used on service areas of the building.

2. Displays may be placed within windows. Equipment within buildings shall be placed a minimum of five feet behind windows. To preserve views, within three feet of any window, not more than 30% of the view through the windows shall be blocked by merchandise, displays, shelving, or other obstructions.

3. Window shape, size and patterns shall emphasize the intended organization of the façade and the definition of the building.

v. Compatibility with traditional buildings. New development shall relate to the design of traditional buildings adjacent to the site, where present, in scale and character. This can be achieved by maintaining similar façade divisions, roof lines, rhythm, and proportions of openings, building materials and colors. Historic architectural styles are encouraged, but need not be replicated.

vi. Building alignment. Buildings shall be aligned with facades parallel with the street to create a well-defined street edge. (see FIGURE 4)

vii. Building articulation. Buildings shall have horizontal and vertical articulation, which may include dormers, cornice detailing, recesses and projections, step-backs of upper stories, changes in roof types and planes, building materials, and window patterns. The base of a building shall relate to the human scale, including doors and windows, texture, projections, awnings, canopies, and similar features.

viii. Ground-floor residential uses. Ground-floor residential uses fronting a public street or walkway, where present, may be separated from the street by landscaping, steps, porches, grade changes, and low ornamental fences or walls in order to create a private yard between the sidewalk and the front door.

(e) MU-1 District. In addition to the standards (e) i-x above, the following shall apply to non-residential and mixed use buildings in the MU-1 District.

i. New construction. Maintain the scale and character of present buildings. New structures shall provide height, massing, setbacks, materials and rhythm compatibility to surrounding structures, streetscape and signing system.

ii. Infill buildings.

A. Proportion. Infill buildings should be in proportion to adjacent and nearby buildings.

B. Windows. Window and door frames should be wood, appropriately colored or bronze-tone aluminum or bronze-tone vinyl clad.

C. Roofs. Infill building roofs shall be flat or gently pitched and hidden behind flat parapet walls. Roof edges should be related in size and proportion to adjacent buildings. (Authentic designs which emulate the roof line and/or cupola of the post office will be considered.)

D. Detailing. Infill architecture should reflect some of the detailing of surrounding buildings in window shape, cornice lines and brick work. Building alterations should restore architectural details of cornices, lintels, area arches, chimneys and iron work of the original building as appropriate and feasible.

iii. Restoration and rehabilitation. All work should be of a character and quality that maintains the distinguishing features of the building and environment. The removal of architectural features is not permitted.

A. Deteriorated architectural features shall be repaired rather than replaced.

B. Distinctive stylistic features or examples of skilled craftsmanship characteristics are to be preserved. If changes in use of a building are contemplated, changes should be accomplished with minimum alteration to the structure.

C. It is expected that buildings will be restored to their original appearance; however, restoration to an "original" appearance may not always be desirable or possible.

iv. Trademark building design. Trademark buildings that will adapt to the area and the requirements of this chapter may be allowed.

v. Arcades. Arcades adjacent to sidewalks are encouraged to increase the effective width of the narrow sidewalks and provide a sheltered pedestrian path along store display windows. No side setbacks are allowed unless next to a public pedestrian way.

vi. Ground floor. The overall look at the ground floor should be a "store front" appearance.

vii. Rear entrances. Rear entrances to buildings should be provided in order to develop double street frontages. The rear entrance should present a welcome appearance. A small sign, awnings, display windows and planter boxes can be used to improve the appearance of the rear facade and entrance.

viii. Awnings. Awnings add color and shade to a building facade as well as provide an area for signage. Only awnings which complement the building shape and color will be permitted.

ix. Facade openings. The size and proportion of windows and door openings (fenestration) of an infill building should be similar to those on the adjacent facades.

x. Storefront restoration. Storefronts are encouraged to return the facade to its original character as appropriate.

xi. Blank walls. Blank walls are prohibited to prevent the disruption of existing patterns and to avoid an uninviting street environment. Street facades can be enhanced with detailing, artwork, landscaping or other visually interesting features.

xii. Lighting. Lighting adds special character to the downtown's nighttime appearance. It can illuminate building entrances, pedestrian walkways, advertising or floodlight special buildings.

A. A coordinated lighting plan shall be submitted for review with building plans. Lighting fixtures shall be concealed or integrated into the overall design of the project. Colored lighting should be added to achieve harmony with downtown street lighting.

B. All outdoor lighting shall be directed away from adjoining property and from the street unless globe lighting is used.

xiii. Exterior surfaces. The use of decorative surface treatments for walkways, entrances and patios shall be a design feature of the building.

xiv. Building materials. In all districts, buildings and structures must comply with the following:

A. Nonresidential buildings and mixed-use buildings. These buildings shall be constructed of durable, high-quality materials such as brick, stone, textured cast stone, or tinted masonry units. Table 9 lists allowable building materials. When applying these requirements, consideration shall be given to the use, amount, placement and relationship of each material as part of a comprehensive palette of building materials. All building facades visible from a public street or public walkway should employ materials and design features similar to or complementary to those of the front façade.

(F) *Landscaping and screening.*

1. *Purpose.* The purpose of this section is to establish requirements that are intended to contribute to the aesthetic environment of the city, enhance livability and foster economic development by providing an attractive urban setting. This section is also intended to:

(a) Protect, restore, preserve and maintain the natural environment throughout the development process.

(b) Enhance the appearance, character, health, safety and welfare of the community.

- (c) Provide green spaces that can support the urban citywide tree canopy, wildlife, such as birds, in the urban environment.
- (d) Increase the compatibility of adjacent uses, minimize adverse impacts of noise, dust, debris, artificial light intrusions, activities or impacts to adjacent or surrounding uses.
- (e) Contribute to the green infrastructure of the city to reduce air pollutants, mitigate the urban heat island effect and stormwater run-off issues.

2. *Applicability.*

(a) Landscaping shall be provided consistent with this section for all new development, including structures, parking lots or site improvements, as well as alterations to existing development. The entire development site must be brought into compliance with this section unless the value of the alteration is less than 50% of the value of the existing development or structure. If the value is less than 50% of the value of the existing development or structure, then only the affected areas need to be brought up to compliance or approval may be given for the landscape treatment (limited in size and scope to the new area) to be spread over the entire property to avoid an uneven appearance.

(b) The following requirement shall be enforced with the exception of when the review authority determines that the amount and/or locations of plantings pose a risk of overcrowding of plant materials.

3. *Tree requirements.*

(a) Number of trees. Trees must be planted within the property lines and in a location as not to interfere with sight line visibility at maturity. The minimum number of trees of any given site shall be as follows:

- i. Single- and two-family uses. A minimum of one tree per parcel.
- ii. Townhouse and multiple family uses. Residential structures containing two or more units shall contain as a minimum: one tree per dwelling unit.
- iii. MU-2 and MU-3 Districts. Whichever is greater: one tree per 1,000 square feet of gross building floor area or one tree per 50 lineal feet of site perimeter.

4. *Landscape coverage.* All residential district properties are encouraged to have diversified landscaping in addition to the landscaping required in setback areas for free-standing, detached structures. All landscaped areas are encouraged to be developed with live deciduous and coniferous plants, grass, trees, and shrubs which provide a variety of color, texture, height, and forms consistent with the needs of the site and other elements of the plan. The landscaped areas may contain, but not limited to, some decorative stones, wood, patio blocks, sculptures, and other appropriate ornamental features. Overall composition and location of landscaped areas shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas. The following zoning classifications will have the following percentage of the lot landscaped:

(a) R-1 District. All areas, except for buildings, driveways and approved parking areas, shall be landscaped as described above. Landscaping may include retaining the natural landscape where appropriate. At least 60% of the front yard must be landscaped.

(b) R-2 District. All areas, except for buildings, driveways and approved parking areas, shall be landscaped as described above. Landscaping may include retaining the natural landscape where appropriate. At least 50% of the front yard must be landscaped.

(c) R-3 District. All areas, except for buildings, driveways and approved parking areas, shall be landscaped as described above. This includes retaining the natural landscape where appropriate. Screening shall be provided and established to protect and screen potential functional, use or density incompatibilities, including those related to streets, county, state roads and parking lots.

(d) MU-1 District. Landscaping treatment shall be provided to enhance architectural features, strengthen vistas, screen utility areas and enhance streetscape treatments. Where possible, a minimum of 2% of the site may provide for diversified landscaping that allows infiltration of stormwater. Screening shall be provided and established to protect and screen abutting residential districts.

(e) MU-2 and MU-3 Districts. All areas, except for buildings, driveways and approved parking areas, shall be landscaped as described above. Where possible, a minimum of 2% of the site may provide for diversified landscaping that allows infiltration of stormwater. Screening shall be provided and established to protect and screen abutting residential districts.

5. *Required yards and setbacks.*

(a) All developed uses shall consist of, but not limited to, a landscaped yard, including grass, plantings, decorative stones, trees and shrubs, along all streets.

(b) Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot, such yard shall have a depth of at least ten feet.

(c) Required yards and setback areas, except driveways and areas used for accessory structures, shall be graded to final elevations and sodded or seeded and landscaped with grass, plantings, decorative stones, trees and shrubs.

6. *Interior parking landscaping.* The purpose of interior parking lot landscaping is to improve the appearance of parking lots, provide shade, and improve stormwater infiltration. The following standards apply to those lots with seven or more spaces:

(a) A planting island with a minimum of one tree shall be installed for every 12 parking spaces.

(b) The primary plant material shall be shade trees with at least one deciduous canopy tree for every 200 square feet of required landscaped area.

(c) Islands may be curbed or may be designed as uncurbed bio-retention areas as part of an approved low impact stormwater management design as approved by the City Engineer.

7. *Screening.* Screening shall be provided along the side and rear of property boundaries between commercial, mixed-use, or industrial districts and residential districts. Screening shall consist of:

(a) A solid wall, solid fence, or hedge with year-round foliage six and one-half feet in height, except that within the front yard setback, screening shall not exceed three and one-half feet.

(b) Height of the screening shall be measured from natural or approved grade.

(c) Berms and retaining walls shall not be used to increase grade relative to screening height.

8. *Traffic visibility.* In order to provide a clear view of intersecting streets to motorists, a triangular area of clear vision formed by the two intersecting streets and driveways and a line connecting said centerlines, shall be kept clear of visual obstruction, as specified below. (see FIGURE 23)

(a) Within any vision clearance triangle, screening, plantings, walls, fences or other obstructions are not permitted between a height of 30 inches and ten feet above the curb level, with the exception of fences with a maximum of three feet in height and at least two-thirds open to vision.

(b) Where two streets intersect, the line shall extend a minimum of 40 feet from the intersection of the two street property lines.

(c) At the intersection of a private drive or alley with a street, the line shall extend a minimum of ten feet from the intersection of the street and alley or drive property lines.

9. *Drainage, access & utility easements.*

(a) No landscape material other than grass, or retaining walls, shall be placed within a drainage, access or utility easement. Rock or riprap may be allowed upon review and approval by the Zoning Administrator provided the proposed material does not interfere with drainage, access or utilities.

(b) The city or utility companies may clear any plantings or retaining walls positioned within an easement, access or utility easement. The city is not liable for any damage to plantings or retaining walls constructed within the city's easement.

10. *Maintenance.*

(a) Responsibility. Maintenance shall be the responsibility of the individual property owner.

11. *Tree preservation.* Prior to the issuance of building permits for all new and/or expanded uses, a tree preservation plan shall be submitted. A tree preservation plan must be submitted and approved when existing trees are used to meet a landscape or tree standard. The plan and its implementation shall be subject to the review and approval of the City Engineer and Zoning Administrator. The Zoning Administrator may exempt an applicant from the submission of a tree preservation plan upon demonstration that such a plan is not considered relevant to the site in question. Elements of the plan include:

(a) A written statement that the trees to be preserved are healthy.

(b) A site plan that is drawn to scale and shows:

i. All trees to be preserved on the site, their species and diameter.

- ii. The location of water, sewer, and other utility easements.

12. *Completion.* All proposed grading and landscaping shall be completed within 90 days after the certificate of occupancy is issued. If a certificate of occupancy is issued between the months of November and April 15, the 90 day period shall begin to run on April 15.

(G) *Low impact design.*

1. *Purpose and intent.* Low-impact development (LID) is an ecologically friendly approach to site development and storm water management that aims to mitigate development impacts to land, water, and air. The approach emphasizes the integration of site design and planning techniques that conserve natural systems and hydrologic functions on a site. Using the low impact development approach, storm water is managed on site and the rate and volume of predevelopment storm water reaching receiving waters is unchanged. The calculation of predevelopment hydrology is based on native soil and vegetation. Specifically, LID aims to:

- (a) Preserve open space and minimize land disturbance;
- (b) Protect natural systems and processes (drainage ways, vegetation, soils, sensitive areas);
 - i. Reexamine the use and sizing of traditional site infrastructure (lots, streets, curbs, gutters, sidewalks) and customize site design to each site;
 - ii. Incorporate natural site elements (wetlands, stream corridors, mature forests) as design elements; and
 - iii. Decentralize and micromanage storm water at its source.
 - iv. LID is the preferred method of addressing stormwater management unless proven infeasible.

2. *Development goals.* The following principles shall be utilized by the city when evaluating development proposals:

- (a) Maximize retention of native forest cover and vegetation and restore disturbed vegetation to intercept, evaporate, and transpire precipitation.
- (b) Minimize creation of impervious surfaces.
- (c) Preserve permeable, native soil, and enhance disturbed soils to store and infiltrate storm flows.
- (d) Retain and incorporate topographic site features that slow, store, and infiltrate stormwater.
- (e) Retain and incorporate natural drainage features and patterns.

(H) *Aviation requirements.*

1. *Purpose.* The Federal Aviation Administration is required to make certain determinations of compliance to the U.S. airworthiness standards before issuing any approvals or certifications.

2. *Notifications required.* An applicant who proposed the construction of any structure with a height equal to or greater than 200 feet above ground level; or the alteration of any structure to a height which is equal to or greater than 200 feet above ground level shall notify the Minnesota Department of Transportation Commissioner and the Federal Aviation Administration Commission of said proposal at least 30 days prior to the City Council's consideration of said request.

3. *Proof of notification.* The applicant shall submit evidence to the city verifying the Minnesota Department of Transportation and the Federal Aviation Administration have been duly notified of said proposed structure prior to the City Council approval.

(I) *Alternative energy systems.*

1. *Purpose.* To provide a sustainable quality of life for the city's residents, making careful and effective use of available natural, human and economic resources and ensuring that resources exist to maintain and enhance the quality of life for future residents. The city finds that it is in the public interest to encourage alternative energy systems that have a positive impact on energy production and conservation while not having an adverse impact on the community. The purpose of this section is to:

- (a) Accommodate alternative energy sources by removing regulatory barriers and creating a clear regulatory path for approving alternative energy systems.
- (b) Create a livable community where development incorporates sustainable design elements such as resource and energy conservation and use of renewable energy.

(c) Protect and enhance air quality, limit the effects of climate change and decrease use of fossil fuels.

(d) Accommodate alternative energy development in locations where the technology is viable and environmental, economic and social impacts can be mitigated.

(e) Encourage development by establishing reasonable requirements for performance, safety, design and aesthetics of alternative energy systems.

2. *Ground source heat pump systems.*

(a) Zoning district allowance. Ground source heat pump systems in accordance with the standards in this section are allowed as a permitted accessory use in all zoning districts.

(b) General standards.

i. System requirements.

A. Only closed loop ground source heat pump systems utilizing heat transfer fluids as defined in this section are permitted. Open loop ground source heat pump systems are not permitted.

B. Ground source heat pump systems in public waters may be permitted as a conditional use in all zoning districts in accordance with this section and subject to the following:

1. Approval from the Minnesota Department of Natural Resources.

2. Written consent of all property owners and/or approval by an association in accordance with its adopted bylaws.

3. Demonstrated compliance with applicable city permit requirements.

C. Ground source heat pump systems in water bodies owned or managed by the city are not permitted.

ii. Setbacks.

A. All components of ground source heat pump systems including pumps, borings and loops shall be set back at least five feet from side, front and rear lot lines.

B. Above ground equipment associated with ground source heat pumps shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public right-of-way and shall meet all required setbacks for the applicable zoning district.

iii. Construction.

A. All access shall be over the owner's land and due care shall be taken to avoid hazard, inconvenience or damage to public streets and nearby public or private property.

B. Necessary precautions shall be taken in stockpiling excavated materials to avoid erosion, dust or other infringements upon adjacent property.

C. All wiring, installation of pipes, grading and all other installations and construction shall be subject to inspection.

D. Disturbed land shall be restored to its prior condition after completion of construction.

iv. Easements. Ground source heat pump systems shall not encroach on public drainage, utility roadway, or trail easements.

v. Noise. Ground source heat pump systems shall comply with Minnesota Pollution Control Agency standards outlined in Minnesota Rules Ch. 7030 as amended.

vi. Screening. Ground source heat pumps are considered mechanical equipment and subject to the requirements for the applicable zoning district.

(c) Certification. Ground source heat pumps shall be certified by Underwriters Laboratories, Inc., and meet the requirements of the State Building Code.

(d) Abandonment. If a ground source heat pump system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained in accordance with the following:

- i. The heat pump and any external mechanical equipment shall be removed.
 - ii. Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid. The heat transfer fluid shall be captured and disposed of in accordance with applicable regulations. The top of the pipe, coil or boring shall be uncovered and grouted.
 - iii. Lake ground source heat pump systems shall be completely removed from the bottom of the body of water.
- (e) Permits. A building permit shall be obtained for any ground source heat pump system prior to installation. Borings for vertical systems are subject to approval by the Minnesota Department of Public Health.

3. *Wind energy systems.*

- (a) Zoning district allowance. Small wind turbine systems in accordance with the standards in this section are allowed as a permitted accessory use in all zoning districts.
- (b) General standards. The following standards shall be applicable to small wind turbine systems in all zoning districts:
- i. Number. No more than one wind energy system is permitted per parcel.
 - ii. Setbacks. The base of the wind turbine tower shall be set back from all property lines a distance equal to the highest possible extension of the system apparatus.
 - iii. Roof mounting. Roof mounted wind turbines shall be permitted only when a determination is made by the City Building Official that the underlying roof structure will support such system and all applicable building standards are satisfied.
 - iv. Rotor clearance. No part of a rotor blade shall be located within 30 feet of the ground and within 20 feet of the nearest tree, structure or aboveground utility facility.
 - v. Noise. Wind energy systems shall comply with Minnesota Pollution Control Agency noise standards outlined in Minnesota Rules Ch. 7030, as amended, at all property lines.
 - vi. Screening. Wind energy systems shall be screened from view to the extent possible without impacting their function.
 - vii. Aesthetics. All portions of the wind energy system shall be a non-reflective, non-obtrusive color, subject to the approval of the Zoning Administrator. Only monopole towers are permitted. The appearance of the turbine, tower and any other related components shall be maintained throughout the life of the wind energy system pursuant to industry standards. Systems shall not be used for displaying any advertising. Systems shall not be illuminated.
 - viii. Feeder lines. The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.
 - ix. Standards and certification.
 - A. Standards. Wind energy systems shall meet minimum standards such as International Electrotechnical Commission (IEC) 61400-2 or the American Wind Energy Association's (AWEA) Small Wind Turbine Performance and Safety Standard or other standards as determined by the City Building Official.
 - B. Certification. Wind energy systems shall be certified by Underwriters Laboratories, Inc., and the National Renewable Energy Laboratory, the Small Wind Certification Council or other body as determined by the city. The city reserves the right to deny a building permit for proposed wind energy systems deemed to have inadequate certification or testing for operation in a severe winter climate.
 - C. Maintenance. Wind energy systems shall be maintained. A yearly certificate of inspection and maintenance shall be supplied to the Zoning Administrator. Such inspection shall be from a qualified engineer or other body determined to be acceptable by the Zoning Administrator.
 - D. Utility connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect shall be provided if required by the utility.
 - x. Abandonment. If a wind energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including foundations to below natural grade and transmission equipment.

xi. Permits. A building permit shall be obtained for any wind energy system prior to installation.

(c) Residential district standards.

i. Mounting. All wind turbine systems shall be roof mounted. Ground mounted systems are not permitted.

ii. Height. Wind energy systems shall not extend more than six feet above the highest point of the roof.

(d) Mixed-use district standards.

i. Mounting. Subject to the requirements of this section, wind energy systems may either be roof mounted or ground mounted.

ii. Height.

A. Wind turbine systems shall conform to the maximum height requirements for communication structures standards of the applicable mixed-use zoning district.

B. Wind turbine system heights in excess of the maximum height requirement of the applicable zoning district may be permitted by conditional use permit provided that:

1. The system height, as measured from the base of the tower for ground mounted systems, or base of the building for roof mounted systems, to the highest possible extension of the system apparatus shall not exceed 75 feet.

2. The additional system height is required to allow for the improved operation of the wind energy system.

3. The additional wind energy system height results in a net energy gain.

4. The wind energy system does not adversely affect solar access to adjacent properties.

5. The wind energy system complies with all other engineering, building, safety, and fire regulations.

6. The wind energy system is found to not have any adverse impacts on the area, including the health, safety, and general welfare of occupants of neighboring properties and users of public rights-of-way.

7. The criteria and applicable standards of this section are considered and determined to be satisfied.

iii. Ground mounted systems.

A. Ground mounted wind energy systems shall not be installed in the front yard of any lot or in the side yard of a corner lot adjacent to a public right-of-way.

B. Only monopole towers are permitted.

C. System height shall be measured from the base of the tower to the highest possible extension of the system apparatus.

D. Ground located wind energy systems shall not encroach on public drainage, utility roadway or trail easements.

iv. Blade length. A maximum blade length of 15 feet is permitted.

4. *Solar energy systems.*

(a) Zoning district allowance. Solar energy systems in accordance with the standards in this chapter are allowed as a permitted accessory use in all zoning districts.

(b) General standards.

i. Exemption. Passive or building integrated solar energy systems are exempt from the requirements of this section and shall be regulated as any other building element.

ii. Height. Roof mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district. Ground mounted solar energy systems shall not exceed 15 feet in height.

iii. Location. In residential zoning districts, ground mounted solar energy systems shall be limited to the rear yard. In nonresidential districts, ground mounted solar energy systems may be permitted in front yards, side yards adjacent to public rights-of-way and rear yards.

iv. Setbacks. Ground mounted solar energy systems shall comply with all accessory structure setbacks in the applicable

zoning district. Roof mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.

v. Roof mounting. Roof mounted solar collectors may be flush mounted or bracket mounted. Bracket mounted collectors shall be permitted only when a determination is made by the City Building Official that the underlying roof structure will support apparatus, wind, and snow loads and all applicable building standards are satisfied.

vi. Easements. Solar energy systems shall not encroach on public drainage, utility roadway or trail easements.

vii. Screening. Solar energy systems shall be screened from view to the extent possible without impacting their function.

viii. Maximum area. Ground mounted solar energy systems shall be limited in size to the maximum area requirement allowed for accessory structures or no more than 25% of the rear yard, whichever is less.

ix. Aesthetics. All solar energy systems shall minimize glare toward vehicular traffic and adjacent properties.

x. Feeder lines. The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.

(c) Standards and certification.

i. Standards. Solar energy systems shall meet the minimum standards outlined by the International Electrotechnical Commission (IEC), the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), ASTM International, British Standards Institution (BSI), International Organization For Standardization (ISO), Underwriter's Laboratory (UL), the Solar Rating and Certification Corporation (SRCC) or other standards as determined by the City Building Official.

ii. Certification. Solar energy systems shall be certified by Underwriters Laboratories, Inc., and the National Renewable Energy Laboratory, the Solar Rating and Certification Corporation or other body as determined by the Zoning Administrator for conformance to IEC or AWEA standards. The city reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

iii. Utility connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect shall be provided if required by the utility.

(d) Abandonment. If a solar energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including transmission equipment.

(e) Permit. A building permit shall be obtained for any solar energy system prior to installation.

5. *Application criteria for deviations from standards.* Deviations to the standards in this section may be permitted as a conditional use. In granting a conditional use permit, the City Council shall consider the following additional criteria unique to alternative energy systems:

(a) That the deviation is required to allow for the improved operation of the alternative energy system.

(b) That the alternative energy system has a net energy gain.

(c) That the alternative energy system does not adversely affect solar or wind access to adjacent properties.

(d) That the alternative energy system complies with all other engineering, building, safety and fire regulations.

(e) That the alternative energy system is found to not have any adverse impacts on the area, including the health, safety and general welfare of occupants of neighboring properties and users of public rights-of-way.

(J) *Off street parking & loading.*

1. *Purpose.* The purpose of this section is to provide for off-street parking and loading areas and pedestrian facilities that are accessible, attractive, secure, maintained and meet the needs generated by specific uses. It is further the intent of these regulations to avoid undue congestion on public streets; to protect the level of service and capacity of existing streets; to avoid unnecessary conflicts between pedestrians and vehicles; to preserve and enhance the city and to protect the public health, safety and welfare.

2. *Application of parking and loading regulations.* The application of off-street parking and loading regulations shall apply to all buildings and uses of land established after the effective date of this section.

3. *General standards.*

(a) Minimum size regulations. Each space shall contain a minimum area of not less than 180 square feet, exclusive of access drives, a width of not less than nine feet and a depth of not less than 20 feet. Each space shall be adequately served by access drives as determined by the Zoning Administrator. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve. Parking ramps and underground parking may be allowed to have some reduction in the dimensions stated above.

(b) Use of parking and loading space. Required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.

(c) Computing requirements. In computing the number of such parking spaces required, the following rules shall govern:

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

(d) Yards. Off-street parking and loading facilities shall be subject to the front yard, side yard and rear yard regulations for the use district in which the parking is located, except in the MU-1, MU-2 and MU-3 Districts, yard setbacks may be reduced if a substantial landscape setback is provided having a width meeting at least the minimum specified.

(e) Buffer fences and planting screens. Off-street parking and loading areas near or adjoining residence districts shall be screened by a buffer fence of adequate design or a planted buffer screen; plans of such screen or fence shall be submitted for approval as part of the required site plan, and such fence or landscaping shall be installed as part of the initial construction.

(f) Access.

- i. Parking and loading space shall have proper access from a public right-of-way as determined by the Zoning Administrator.
- ii. The number and width of access drives shall be so located as to minimize traffic congestion and traffic hazard.

(g) Combined facilities. Except in the R-1 District, combined or joint parking facilities may be provided for one or more buildings or uses, provided that the total number of spaces shall equal the sum of the requirements for each building or use. Underground parking bonus. If 50% or more of the required parking is provided underground or under the principal structure, 300 square feet shall be added as lot area for each space, so placed, and said lot area shall be used to determine the maximum allowable use of the property; for example, the number of dwelling units or the floor area ratio for an office building, provided the maximum bonus shall not increase the number of units or floor area by more than 30%.

(h) Lighting. Lighting shall meet the requirements specified in the zoning district and for the specific use where stated.

(i) Required site plan. Application for a building permit shall include a site plan drawn to scale and dimensioned showing off-street parking and loading space to be provided in compliance with this section. The site plan shall include an acceptable drainage plan.

4. *Construction and maintenance.*

(a) Surfacing. Parking areas, driveways, and parking lots shall be surfaced with an all-weather dustless material consisting of bituminous, brick, concrete pavers or concrete or an alternative material as approved by the Zoning Administrator.

(b) Six or more spaces. Parking lots containing more than six spaces and access drives, except for landscaped areas, shall provide proper surface drainage as required by the city. The surface shall be capable of carrying a load of 2,000 pounds per square foot. (Normally a two-inch bituminous surfacing on a four-inch base of five inches of Portland cement will meet this requirement). Such parking lots shall be delineated by a concrete box curb extending six inches above and six inches below the surface. The curb shall have cuts for drainage. Parking spaces shall be striped. Parking lots which do not meet these requirements must be improved by consistent with this section and must meet ordinance requirements regarding location and other provisions of this code.

(c) Maintenance. The operator of the principal building or use shall maintain parking and loading areas, and access drives in a neat and adequate manner.

(d) Grades. The grade of a private roadway, driveways and parking lots shall not exceed 10% or a grade acceptable to the City Engineer.

5. *Loading areas.*

(a) Loading and unloading areas for goods, supplies and services shall be sufficient to meet the requirements of each use. At a

minimum, one loading dock shall be provided for each nonresidential building having over 20,000 square feet of floor area if the use is retail sales or services. For all other uses, at least one loading dock shall be provided if the building has over 50,000 square feet of floor area.

(b) Loading spaces shall be at least 35 feet long and ten feet wide, and shall have a height clearance of at least 13 feet.

6. *Proof of parking area.*

(a) When the required off-street parking is 30 or more spaces, the owner is only required to pave and stripe 80% of the required parking spaces if the following conditions are met:

i. A parking plan drawn to scale for the property is submitted to the Zoning Administrator and the plan indicates that the site complies with the total parking requirements stated above and with the parking lot design to the standards required by this section;

ii. The portion of the site which is not paved and is capable of containing the amount of parking equal to the difference between the total amount of required parking and the amount of parking required to be paved (known as the proof of parking area) is suitably landscaped and curbed to meet the requirements of this section;

iii. The proof of parking area shall be clearly delineated on the parking plan for the site;

iv. The proof of parking area is not used to satisfy any other landscaping or other requirement and is not located in an area occupied by a building;

v. The property owner is responsible for informing any subsequent owner of the proof of parking area and parking status of the property;

vi. The city may, at its sole discretion, require that the proof of parking area be paved and striped in such a way that it meets the requirements to provide the total number of required parking spaces on the site or a percentage between 80% and 100% if so determined by the city.

7. *Bicycle parking.*

(a) New development. Bicycle parking shall be provided for all new commercial, industrial, community service use, and multifamily residential development.

(b) Number of spaces. The number of bicycle parking spaces shall be at least 10% of the minimum required vehicle parking for the use. In no case shall less than two spaces be provided.

(c) Location of facilities. Bicycle parking facilities shall be located within 50 feet of the main building entrance in a location that is visible to building occupants of from the main parking lot.

(d) The public right-of-way may be utilized for bicycle parking when parking cannot be reasonable accommodated on the site and the location is convenient to the building's front entrance.

(e) The minimum amount of required parking for all non-single-family residential uses may be reduced by up to 10% for the provision of bicycle parking. A reduction of one vehicle parking space is allowed for every six additional bicycle parking spaces installed. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

8. *Car sharing.*

(a) Required parking may be reduced by up to 5% if at least one off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Zoning Administrator, to be accessible to persons throughout North St. Paul and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

9. *Off-street parking standards for residential districts.*

(a) Truck or bus parking in residential districts. Off-street parking of commercially licensed trucks, trailers or buses with a gross weight of over six tons shall be prohibited, except for deliveries or unloading. Trucks, trailers or buses of less than six tons gross weight shall not be stored in the front yard.

(b) Vehicle storage. All vehicles personal, recreational, or commercial shall be stored or parked on a driveway surface.

(c) Setbacks. New driveways and off-street parking shall be set back a minimum of three feet from side property lines.

(d) Location of parking. Required off-street parking spaces shall be provided on the same lot.

(e) Driveways, authorized parking areas, and authorized garages.

i. Driveways must lead to and abut a vehicle access door having a width of at least eight feet. Driveways must not exceed a 22 foot maximum width at the property line.

ii. Existing driveways which do not lead to an authorized parking area or authorized garage must be removed and landscaped.

iii. Existing driveways which provide access to an authorized parking area or garage shall be improved/surfaced according to this section; however, if the driveway leads to an unpaved street or alley, a waiver to the surface requirement will be considered by the city upon receipt of a written request explaining the reason and justification for this request.

iv. Required number of off-street parking spaces. The minimum number of required off-street parking spaces are located in Table 8.

10. *Off-street parking and loading standards for non-residential districts.*

(a) Shared parking. Up to 50% of the parking can be provided through a nonexclusive agreement with the owners of property located within 600 feet of the use if the parking demands of the uses do not coincide.

(b) MU-1. Location of curb cuts so that no cuts exist closer to an intersection than 30 feet from the point of intersection of the setback lines adjacent to intersecting streets.

(c) MU-2. The city may waive some or all off-street parking and loading requirements due to the presence of: small lot size, building coverage, existing municipal parking lots, assessments to properties for off-street parking, on-street parking bays and similar provisions and the need to have street frontages used for retail sales and service uses and not off-street parking.

(d) Parking lots should be screened from streets and sidewalks by planters or plantings or both. If planters are used, their material should be compatible with adjacent buildings. Planters should be at least 18 inches high.

(e) MU-3. Off-street parking may be reduced where it can be demonstrated that such reduction is justified due to joint use of facilities for dissimilar uses, provisions for transit facilities or other factors having impact on parking demand and capacity.

(f) Parking lots and structures. Such parking shall be screened from view, integrated within the buildings or provided underground, where appropriate.

(g) Required number of off-street parking spaces. The minimum number of required off-street parking spaces for the following uses shall be as indicated on Table 8. Where a specific use is not listed, the Zoning Administrator shall determine the minimum number of required off-street parking spaces by considering functional similarities between uses listed and the use not listed.

(K) *Stormwater management.*

1. *Purpose.* The purpose of erosion and sediment control is to control or eliminate soil erosion and sedimentation within the city. It establishes standards and specifications for conservation practices and planning activities which minimize soil erosion and sedimentation.

2. *Incorporation by reference.* The following are hereby incorporated into this chapter by reference:

(a) The National Pollutant Discharge Elimination System Permit, MN R100001 (NPDES construction stormwater permit) issued by the Minnesota Pollution Control Agency, August 1, 2013, as amended. The NPDES general construction permit is incorporated into this chapter by reference.

(b) The city's Engineering Design Standards for Stormwater Management. These standards shall serve as the official guide for erosion and sediment control principles, methods, and practices for proposed development activities. The city's Engineering Design Standards for Stormwater Management are incorporated into this chapter by reference.

(c) The Rules of the Ramsey- Washington Metro Watershed District, as amended, pursuant to the authorization and policies contained in M.S. § 103B, 103D, and 103G, and Minnesota Rules 8410 and 8420.

(d) The Rules of the Valley Branch Watershed District, as amended, pursuant to the authorization and policies contained in M.S. § 103B, 103D, and 103G, and Minnesota Rules 8410 and 8420.

3. *Scope.*

(a) No land shall be developed and no use shall be permitted that results in additional water run-off causing flooding or erosion on adjacent properties. Run-off shall be properly channeled into a storm drain, water course, ponding areas, or other public facility.

(b) Except as exempted by the term "land disturbance activity" in § 154.003, any person, firm, sole proprietorship, partnership, corporation, state agency or political subdivision thereof proposing land disturbance activity within the city shall apply to the city for the approval of the Storm Water Pollution Prevention Plan (SWPPP). No land shall be disturbed until the SWPPP is approved by the city and conforms to the standards set forth herein.

(c) Permits issued under this section apply to land disturbance construction activities greater than or equal to 10,000 square feet and less than one acre (43,560 square feet) and constitute compliance with Minimum Measure #4 of MPCA - General Permit (MN R 040000 et seq.), Authorization to Discharge Storm Water Associated with Municipal Separate Storm Sewer Systems under the NPDES program.

(d) Permits for land disturbance construction activities involving one or more acres are issued and enforced by the applicable districts permit program and/or Minnesota Pollution Control Agency (MPCA) - General Permit (MN R100001 et seq.), Authorization to Discharge Storm Water Associated with Construction Activity under the NPDES permit program.

(e) Permits issued by the applicable districts permit program and/or Minnesota Pollution Control Agency - General Permit (MN R100001 et seq.), Authorization to Discharge Storm Water Associated with Construction Activity under the NPDES permit program constitutes compliance with Minimum Measure #4 of MPCA - General Permit (MN R 040000 et seq.), Authorization to Discharge Storm Water Associated with Municipal Separate Storm Sewer Systems under the NPDES program.

4. *Flood control.* Development and land disturbing activities must meet the following criteria and that of the Ramsey Washington Metro Watershed District or the Valley Branch Watershed District as applicable:

(a) The lowest building floor elevation of any new building shall be placed at least two feet above the elevation of any known historic high groundwater elevations for the area and at least two feet above the 100-year high surface water elevation in the area.

(b) The lowest building opening elevation of any new building shall be at least two feet above the projected 100-year high water elevation for the area.

(c) An emergency spillway from ponding areas shall be installed a minimum of one foot below the lowest building opening and shall be designed to have a capacity to overflow water at an elevation below the low building opening at a rate not less than three times the 100-year peak discharge rate from the basin or the 100-year inflow rate to the basin, whichever is higher.

5. *Storm Water Pollution Prevention Plan (SWPPP).* A developer engaged in a land disturbance activity shall submit a Storm Water Pollution Prevention Plan (SWPPP) that will minimize soil erosion or sediment from damaging adjacent land, bodies of water, watercourses or wetlands to the city for its approval.

(a) Standards. No SWPPP which fails to meet the standards contained in this section shall be approved by the City Council.

(b) Every applicant for a building permit, subdivision approval, or permit to allow land disturbing activities greater than or equal to 10,000 square feet and less than one acre (43,560 square feet) shall submit a SWPPP to the city. The SWPPP shall meet the requirements of the NPDES construction stormwater permit and the city's Engineering Design Standards for Stormwater Management prior to starting construction.

(c) The SWPPP shall include the following:

- i. Project description. The nature and purpose of the land-disturbing activity and the amount of grading involved.
- ii. Phasing of construction. The nature and purpose of the land-disturbing activity and the amount of grading, utilities and building construction.
- iii. Existing site conditions. Existing topography, vegetation and drainage.
- iv. Adjacent areas. Neighboring streams, lakes, residential areas, roads and the like which might be affected by the land-disturbing activity.
- v. Soils. Soil names, mapping units, irritability.
- vi. Critical erosion areas. Areas on the site that have potential for serious erosion problems.
- vii. Erosion and sediment control measures. Methods to be used to control erosion and sedimentation on the site, both during and after the construction process.

- viii. Permanent stabilization. How the site will be stabilized after construction is completed, including specifications.
- ix. Stormwater management. How storm runoff will be managed, including methods to be used if the development will result in increased peak rates of runoff.
- x. Maintenance. Schedule of regular inspections and repair of erosion and sediment control structures.
- xi. Calculations. Any that were made for the design of such items as sediment basins, diversion, waterways and other applicable practices.
- xii. Erosion and Sediment Control Plan. The Erosion and Sediment Control Plan shall address the following criteria:
 - A. Stabilize all exposed soils and soil stockpiles;
 - B. Establish permanent vegetation;
 - C. Prevent sediment damage to adjacent properties and other designated areas;
 - D. Schedule erosion and sediment control practices;
 - E. Use temporary sedimentation basins;
 - F. Engineer the construction of steep slopes;
 - G. Control the storm water leaving a site;
 - H. Stabilize all waterway and outlets;
 - I. Protect storm sewers from the entrance of sediment;
 - J. Properly manage and dispose of all hazardous and solid wastes;
 - K. Take precautions to contain sediment when working in or crossing water bodies;
 - L. Restabilize utility construction areas as soon as possible;
 - M. Protect paved roads from sediment and mud brought in from access routes;
 - N. Dispose of temporary erosion and sediment control measures; and
 - O. Maintain all temporary and permanent erosion and sediment control practices.

6. *Review.* The City Engineer shall review the SWPPP within 15 working days of receiving the plan from the developer. The city shall notify the developer of its decision after receipt of comments from the City Engineer and no more than 20 working days after receiving the plan from the developer.

(a) *Permit required.* If the City Engineer determines that the SWPPP meets the requirements of this section, the city shall issue a permit valid for a specified period of time that authorizes the land disturbance activity contingent upon the implementation and completion of the SWPPP.

(b) *Denial.* If the City Engineer determines that the SWPPP does not meet the requirements of this section, the city shall not issue a permit for the land disturbance activity. The SWPPP must be resubmitted for approval before the land disturbance activity begins. All land use and building permits must be suspended until the developer has an approved SWPPP.

7. *Easement.*

(a) The developer may dedicate an easement to the city for any permanent erosion and sediment control practice(s) that remain after the land disturbance activity is completed.

(b) The developer shall be responsible for the maintenance of the permanent erosion and sediment control practices for the period of construction activity. The city shall assign the maintenance responsibility for a permanent erosion and sediment control practice(s) after that time.

8. *Modification.* An approved SWPPP may be modified upon submission of an application for modification and subsequent approval by the city. In reviewing such application, the city may require additional reports and data.

9. *Escrow requirement.* Upon approval of a SWPPP, the city shall require the developer to escrow a sum of money sufficient to

insure the installation, completion and maintenance of the SWPPP and practices.

10. *Variance.*

(a) In the case of restrictive site conditions or emergency situations, the developer may apply for a variance from this section. The city shall submit the variance request to the appropriate district(s) within ten working days after receipt. When the district's position on a variance request differs from that of the city, the district's jurisdiction supersedes the city's.

(b) When road construction crosses municipal boundaries, Ramsey County or the Minnesota Department of Transportation shall obtain an erosion and sediment control permit from the appropriate district(s) rather than individual cities.

11. *Enforcement.* The city delegates to the Ramsey-Washington Metro and Valley Branch Watershed Districts the authority to perform the city duties pertaining to review, permitting and enforcement of this section on properties of one or more acres. All land disturbing activities between 10,000 SF and less than one acre shall comply with the city's Engineering Design Standards for Stormwater Management. For sites found to be non-compliant with the city's Engineering Design Standards for Stormwater Management, the city shall implement the following actions as necessary:

(a) Notice of violation. When the city determines that an activity is not being carried out in accordance with the requirements of this chapter, it shall issue a written notice of violation to the owner or applicant of the project. The notice of violation shall contain:

i. The name and address of the owner or applicant;

ii. The address, when available, or a description of the land upon which the violation is occurring;

iii. A statement specifying the nature of the violation;

iv. A description of the remedial measures necessary to bring the development activity into compliance with this chapter and a time schedule for the completion of such remedial action;

v. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and

vi. A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 15 days of receiving of the notice of violation.

(b) Stop work order. Persons receiving a stop work order will be required to halt all construction activities immediately. This stop work order will be in effect until the city confirms that the land disturbance activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.

(c) Civil or criminal penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a misdemeanor and subject to prosecution. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

(d) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which may, after notice and opportunity for hearing, be specially assessed against the property and collected along with the ordinary taxes by the county.

12. *Violations.* Any person, firm or corporation who fails to comply with or violates any of these regulations shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment. All land use and building permits must be suspended until the developer has corrected the violation and amended the SWPPP for the land disturbance activity. Each day that a separate violation exists shall constitute a separate offense.

(Ord. 739, passed 8-18-2015; Am. Ord. 748, passed 1-19-2016; Am. Ord. 753, passed 7-19- 2016)

§ 154.011 SIGNS.

(A) *Findings.*

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 detracts to property values, thereby threatening the public health, safety and welfare.

(B) *Purpose.*

1. The city has a governmental interest in establishing a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe and attractive community, and the need for effective communications including business identification. It is the intent of this section to promote the health, safety, and general welfare of the city, while recognizing the need to maintain an attractive and appealing appearance of property in the city. Sign regulations, including, but not limited to those which control the duration of display, number, height, width, total area, methods of support, placement, materials, illumination, and other features are established. Sign regulations are intended to:

- (a) Promote an attractive, harmonious environment that creates a sense of place and prevent conditions, which have undesirable impacts on surrounding properties.
- (b) Ensure regulations that allow zoning districts to function effectively and efficiently.
- (c) Protect property values, public investment and the overall character of the city.
- (d) Promote traffic and pedestrian safety, prevent visual clutter and pollution, and design, construct and install signs in a manner that does not adversely impact public safety.
- (e) Ensure signs are compatible and proportioned to the scale of their surroundings.
- (f) Ensure adequate means of expression as allowed by the first amendment of the U.S. Constitution and other federal, state, and local laws.
- (g) To permit safe, effective, efficient and aesthetic means of communication using signs.
- (h) recognize the need to maintain an attractive and appealing appearance of property in the city;
- (i) Ensure adequate identification of each business while minimizing the tendency for signs to compete for attention with excessive wording or flashy visual stimulation;
- (j) To ensure expression of a business' individuality while at the same time ensuring architectural harmony, compatibility and unity of the streetscape.

(C) *General provisions.* The following regulations shall apply to all signs permitted in all districts:

- 1. *Conformance.* All signs except official traffic and street signs shall conform to the provisions of this section and any other ordinance or regulations of the city.
- 2. *Proximity to warning and regulatory signs and signals.* No sign shall be located which will:
 - (a) Interfere with the ability of any driver or pedestrian to see any street or highway sign, traffic sign or signal or crossroad or crosswalk.
 - (b) Will distract drivers or offer any confusion to any street or highway sign, traffic sign or signal.
- 3. *Sign setbacks.* All signs unless specifically noted otherwise, shall maintain a ten foot setback from all lot lines. The city may require a greater or lesser setback due to public safety reasons, which may include the following conditions: vehicle sight distance, distance from intersection, designation of adjacent right-of-way.
- 4. *Sign integration.* Signs are to be coordinated in their design, material and locational placement with the building design and architecture in terms of the materials and placement of such sign.

(D) *Permitted signs by zoning district.* The sign standards listed by district and lot size in Table 10 shall apply in determining certain residential and business sign areas allowed.

(E) *Downtown Overlay.*

1. *Purpose.*

- (a) Preserve cultural aspects of the historic commercial district.
- (b) Encourage the physical development of the city as intended by the city's Comprehensive Plan and Downtown Design

manual/plans.

- (c) Encourage the harmonious development and appearance of structures and property within the district.
- (d) Maintain and improve property values of the district and throughout the city.

2. *Types/design of signs allowed.* The following types of signs are allowed when meeting the requirements of the Downtown Design Manual:

- (a) Permanently painted window signage no more than 20% of the window area.
- (b) Wall signs.
- (c) Projecting signs.
- (d) Neon light signs more than 20% of the window area or building exterior wall area.
- (e) Banners as temporary signs for a period greater than 30 days in one calendar year or two 15 day periods within one calendar year.
- (f) Three dimensional and flat projecting signs with a maximum space between signage and building face of one foot.
- (g) Rooftop signs used in a parapet as indicated in the Downtown Design Manual.
- (h) Temporary signage up to 20% of the window area or wall surface area.
- (i) A-frame or sandwich board sidewalk signs.
- (j) Permanent freestanding signs when approved within a design plan for the property.

3. *Prohibited signs.*

- (a) Flashing lights and bare bulb lights.
- (b) Fiberglass and plastic signs, except A-frame or sandwich board sidewalk signs.
- (c) Internally illuminated signs (not including neon or marquee signs) are not allowed.

4. *Placement of signs.* Signs shall not cover architectural detail on the building, windows, or cornices.

5. *Lighting of signs.* Source of the light must be directed at the sign and must be shielded (not be visible to pedestrians, motorists, or neighboring residents or businesses).

(F) *Comprehensive (master) sign programs. Multi-tenant building.*

1. The property owner shall be responsible for allocating the allowable sign area among the tenants of multi-tenant buildings. In the event that the owner does not allocate the sign area, the city may do so based on the relative floor area or tenant frontage.

2. Unified shopping center/multiple-tenant buildings. In a unified shopping center or multiple-tenant building, the total surface area of all individual signs on the buildings shall not exceed the maximum square footage requirements outlined in Table 10. As a part of this maximum square footage the center or building may erect one freestanding or monument sign, which identifies the name and location of the building and its tenants. For shopping centers or multiple tenant buildings, one freestanding or monument sign may be permitted per street right-of-way, provided it meets the requirements of maximum surface area and height outlined in Table 10.

3. Master sign plan. No permit shall be issued for an individual sign requiring a permit in a commercial and/or industrial zoning district where more than one business or industry will be located until a master signage plan has been approved by the city. The master signage plan is intended to control total sign area and sign placement so as to help eliminate incongruities as tenants/occupants change.

4. The owner/agent proposing a commercial or industrial development plan, site plan, and/or planned unit development with more than one individual business or tenant any shall submit a master signage plan containing the following information:

- (a) A scaled site plan showing location of buildings, parking lots, driveways and landscaped areas and an accurate indication on the site plan of the proposed location of present and future signs of any type, whether requiring a permit or not.
- (b) Scaled color drawings clearly showing location of sign on building elevation.
- (c) Computation of the maximum total sign area, the maximum area for individual signs and the height of signs.

(d) The maximum numbers of signs affixed to a building by each business within the building shall be controlled by the master signage plan.

(e) Other provisions of the plan may contain such other restrictions as the owner of the development or building may reasonably determine.

(f) The plan shall be signed by all owners or their authorized agents in such form as required by the city or as a part of applicable and active restrictive covenants.

(g) A master signage plan may be amended by filing administratively a new master signage plan that conforms to all requirements of this chapter.

(h) After approval of a master signage plan, no sign shall be erected, placed, painted or maintained, except in conformance with approved master signage plan and such plan may be enforced in the same way as provisions of this chapter. In case of any conflict between the provisions of such a plan and this Code, the Code shall govern.

(G) *Planned Unit Development.* Permanent and temporary signs are regulated according to the standards for the corresponding land use and zoning category as stated in this section. A sign plan with differing requirements may be approved by the Zoning Administrator. Factors which will be used in determining if an individual Planned Unit Development sign plan will be considered include the following:

1. The development includes a structure three stories or greater.
2. The development includes multiple structures and/or substantial site area.
3. The development includes mixed uses.
4. A sign plan is uniquely adapted to address the visibility needs of a development while remaining consistent with the intent of this section to direct high quality signage.
5. The sign plan includes permanent sign covenants which can be enforced by the city.

(H) *Exemptions to the sign ordinance.* The following types of signs are exempted from all the provisions of this section and do not require a sign permit, except for construction and safety regulations and the following standards:

1. *Replacing copy.* The changing of the advertising copy or message on an approved sign which are specifically designed for the use of replaceable copy.
2. *Maintenance.* Painting, repainting, cleaning and other normal maintenance and repair of a sign structure unless a structural change is made.
3. Signs having an area of six square feet or less, but no more than one per business nor more than two per lot, provided the sign area does not exceed the area allowed by this section.
4. *Indoor signs.* Signs that are completely within a building and are not visible from the outside of said building.
5. Sculptures, fountains, mosaics, murals, and other works of art that do not incorporate business identification or commercial messages.
6. Signs installed and maintained on bus benches and/or shelters within city right-of-way, pursuant to a franchise authorized by the City Council.
7. Seasonal decorations for display on private property.
8. *Non commercial signs.* Signs of a noncommercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of public duty, such as directional signs, regulatory signs, warning signs, incidental and informational signs.
9. *Traffic signage within the public right-of-way.* Permanent governmental signs for control of traffic and other regulatory/notification purposes as governed under Manual on Uniform Traffic Control Devices (MUTCD) and MN.MUTCD.
10. Non-electric bulletin boards not exceeding 12 square feet in area for each public, charitable, or religious institution, when the same are located on the premises of said institutions.
11. *Integral signs.* Names of buildings, dates of erection, monumental citations, commemorate tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of

the structure.

12. *Window signs.* In the MU-1, MU-2, and MU-3 Districts, window signs as defined in this section shall be permitted in a window. The total area of all window signs shall not exceed 20% of the window glass area, to be calculated separately for each side of the building. Neon signs are permitted on the building exterior and in display windows as long as they do not cover more than 20% of the window area or building exterior.

13. *Private traffic direction.* Signs directing traffic movement onto a premise or within a premises, not exceeding eight square feet in area for each sign. Illumination of these signs shall conform to this section, except that standard traffic signal light devices may be used if needed. Horizontal direction signs on and flush with paved areas are exempt from these standards.

14. *Yard signs.* Temporary yard signs not exceeding six square feet in area located on the subject property and limited to one such sign for each street frontage of a home, lot, parcel or tract under two acres in area other than those included in this section. Signs shall be removed within seven days.

15. Off-premise directional signs may be placed on private property or on the right-of-way adjacent to said private property, with the permission of the abutting property owners. The signs shall be displayed in such a manner as to not constitute a traffic hazard or impair or impede pedestrians, bicycles, or disabled persons. Signs shall not exceed three square feet in area and four in number. The top of such signs shall not exceed three feet in height.

16. *Political signs.* 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 ten days following the state general election, and in the case of a special election, from 30 days before the special election to seven days after a special election.

17. *National, state, county or city flags.* Nothing in this section shall in any way prohibit or limit the display of national, state, county or city flags.

18. *Decorative flags.* May be part of a permanent sign plan provided there is a maintenance schedule and it is observed. Each business is allowed up to two per business. They must not interfere with pedestrian or vehicular sight-lines or mobility.

19. *Address signs.* A minimum of one address sign shall be required. Such sign shall be of sufficient size to be legible from the nearest street yet shall not exceed two square feet in area.

(I) *Prohibited signs.* The following signs are prohibited in all districts:

1. Advertising signs (billboards).
2. Advertising or business signs on or attached to mobile equipment (but not a portable sign), where signing is a principal use of the equipment on either a temporary or permanent basis.
3. Signs mounted on chimneys, rooftop equipment, towers, flagpoles, cooling towers, elevator penthouses, commercial antennas, communication towers, belfries, church spires and cupolas.
4. Signs which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal or which obstruct the view in any direction at a street or road intersection.
5. Signs which are pasted or attached to utility poles, trees, fences, other signs or their own poles which are not specifically allowed by this section.
6. *Right-of-way signs.* Signs on or over the municipal, county or state public right-of-way, unless the city grants permission or as otherwise specified in this section.
7. Roof signs, except within the MU-1 District, as specifically stated within this section. Including signs mounted on a roof surface or projecting above the roof line of a structure if either attached to the structure or cantilevered over the structure.
8. *Flashing signs.* Signs with zooming, twinkling, or flashing illumination.
9. Flashing lights and bare bulb lights.
10. Rotating signs, flashing signs and motion signs, except time and temperature and civic information.
11. Flashing or rotating signs resembling emergency vehicles or equipment of motion.
12. Signs which swing or otherwise noticeably move, or have parts which so move, as a result of wind pressure because of the

manner of suspension or attachment.

13. Beacon lights or search lights as a sign or for advertising purposes.
14. Internally illuminated signs (not including neon or marquee signs).
15. *Monument signs within the MU-1 District.* Monument signs and mobile monument signs except for civic uses.

(J) *Temporary signs.* All temporary signs require a sign permit. The following signs are permitted:

1. *Temporary signs.* Temporary signs shall be set back no less than ten feet from the property line up to a sign area of 30 square feet. Such signs shall be allowed no more than 21 days prior to the event or function and must be removed within three days after the event or function. Such signs may be illuminated in accordance with the restrictions set forth in this section. If building mounted, these signs shall be flat wall signs and shall not project above the roof line. If ground mounted, the top shall be no more than six feet above ground level.
2. *Street banners.* Street banners advertising a public or civic event may be displayed 21 days prior to and three days after the event, but may not hang for a period greater than 30 days.
3. *Decorative banners.* Decorative banners may be displayed 21 days prior to and three days after the event, but may not hang for a period greater than 30 days.
4. *Banners, pennants, whirling devices, balloons.* Banners, pennants, whirling devices and balloons or any such sign resembling the same are allowed when used as an integral part of the design of the building or when used in conjunction with grand openings (the initial commencement of business) or when allowed by the provisions of this section. In the case of grand openings, banners and pennants shall be allowed for the week (maximum ten days) of said grand opening. In other cases, a permit shall be issued for ten day periods, but limited to three times a year per business. A separate occasion begins no sooner than 30 days after expiration of the previous approval and removal of the previous sign, whichever is longer.
5. *A-frame (sandwich or tent signs).* One sign allowed per business, ten square feet per side, four feet in height. Signs shall not be left on the sidewalk overnight and must leave a minimum of six feet of clear walkway on the sidewalk.
6. *Painted window signs.* Signs must not consume more than 20% of the window area. Permanently painted window signage is encouraged if compatible with the architecture of the building as determined by the Zoning Administrator.

(K) *Computations.*

1. *Sign area measurement.*

(a) Freestanding signs. The area within the sign frame shall be used to calculate the square footage.

(b) Wall, window, or other structural surface without a sign frame. The area without a sign frame shall be determined by drawing a box around the outermost periphery of letters or graphics. The square footage shall be that of the box surrounding the said letters or graphics.

(c) Each surface used to display a message shall be measured as a separate sign and shall be calculated in the overall square footage.

2. *Sign height measurement.* The height of a sign shall be measured from the existing grade except for the following: if elevations of the centerline of the nearest frontage street are provided by the sign applicant, this point of elevation may be used rather than existing grade.

3. *Sign as a structure.* A sign is a structure or part of a structure for the purpose of applying yard regulations.

4. *Setbacks.* Within all zoning districts, signs shall be setback a minimum of ten feet from all property lines.

(L) *Illumination.*

1. The light from any illuminated sign or from any light source, including the interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Light shall not shine or reflect on or into a residential structure.

2. No sign shall have blinking, flashing or fluttering lights or other illuminating devices or reflective fluttering which have a changing light intensity, brightness or color or which are so constructed and operated as to create an appearance or illusion of writing

or printing. An exception may be granted by the city for signs providing civic information or public service information such as date, time, temperature and other weather devices. Nothing contained in this section shall, however, be construed as preventing the use of lights or decorations related to religious, civic and patriotic festivities.

3. If the sign is illuminated at night, the source of the light must be directed at the sign and must not be visible to pedestrians, motorists, or neighboring residents or businesses.

4. No exposed reflective type bulbs and no strobe lights, incandescent lamps or zip flasher which exceed 7.5 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.

5. When necessary to prevent a nuisance, the city shall specify the hours during which illuminated signs may be kept lighted.

(M) *Sign maintenance.*

1. *Maintenance.* All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition and in compliance with all applicable building code requirements.

(a) *Painting.* The owner or any sign shall be required to have such a sign properly painted including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust. This shall also apply to murals.

(b) *Area around signs.* The owner, or lessee of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area between the sign and the street and the area within six feet from the ends of the sign, free from refuse.

(c) *Unsafe for dangerous signs.* Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety shall be considered a public nuisance and shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which the sign is located, within ten days after written notification from the Zoning Administrator.

2. *Abandoned signs.* A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it identifies is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the city shall remove it in accordance with this section. These removal provisions shall not apply where a succeeding owner or lessee conducts the same type of business and agrees to maintain the signs as provided in this section or changes copy on the signs to advertise the type of business being conducted on the premises and provided the signs comply with other provisions of this section. Signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than 30 days from the date of vacancy.

(N) *Nonconforming signs.*

1. The Community Development Department shall order the removal of any sign erected or maintained in violation of city ordinances as they existed prior to July 21, 1999, the time of the adoption of the provisions of this chapter. Removal shall be in accordance with this subsection.

2. Any nonconforming temporary, movable or portable sign existing on July 21, 1999, the time of the adoption of the provisions of this chapter shall be made to comply with the requirements set forth herein or shall be removed within 60 days after the adoption of this chapter.

3. Other signs existing at the time of the enactment of this chapter and not conforming to its provisions, but which did conform to previous laws and ordinances when constructed or placed shall be regarded as nonconforming signs which may be continued if properly repaired and maintained as provided in this chapter and if in conformance with other ordinances of the city. If said signs are not continued with conformance of above, they shall be removed in accordance with this chapter.

4. All nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this chapter.

5. Business signs on the premises of a nonconforming building or use may be continued, but such signs shall not be increased in number, area, height or illumination. New signs may be erected only upon the complete removal of all other nonconforming signs existing at the time of the adoption of this chapter.

6. No sign erected before the passage of this chapter shall be rebuilt, altered or moved to a new location without being brought into compliance with the requirements of this chapter.

(O) *Permits.*

1. *Permit requirements.* No sign shall be erected, altered or relocated without a permit issued by the city. Any sign involving electrical components shall be wired by a licensed electrician, and the electrical components used shall bear an Underwriters Laboratories, Inc. seal of inspection.

2. *Application.* The permit application shall be signed by the applicant. When the applicant is any person other than the owner of the property, it shall also be signed by the owner of the property.

3. In addition to the above application, an agreement must be entered into with the city which would authorize and direct the city to:

(a) Remove and dispose of, at the owner's expense, any sign and sign structure on which a permit has been issued but not renewed, by the owner and if not removed by the owner within a 30 day period following the expiration of the permit.

(b) Remove, at the expense of the owner, the sign and sign structure, where maintenance is required but not furnished, after a hearing and a ten day notice to the owner specifying the maintenance required by the city.

4. The issuance of a permit may also be subject to conditions in order to promote a reasonable combination of signs and to promote conformity with the character and use of adjoining property.

5. *Fees.* All fees shall be set by City Council Fee Schedule.

6. *Licenses and bonds.*

(a) No person, firm or corporation shall engage the business of erecting signs under this section unless licensed to do so by the Council. Such license may be granted by the Council after written application to the city, accompanied by an annual license fee to be determined by Council ordinance. This license may be terminated by the Council at any time for cause. No license shall take effect until the licenses shall file with the city a certificate of insurance, evidencing the holding of public liability insurance in the limits and coverage set by the city.

(b) Applicants not engaged in the business of erecting signs who choose to construct and erect a sign on their own property shall be exempt from the above provisions for license and certificate of insurance.

7. *Nullification.* A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months after the date of the permit. A permit may be renewed, and no additional fee shall be collected for the renewal.

8. *Building Official.* The Building Official shall issue all permits for construction, alteration, and erection or signs in accordance with the provisions of this section and related chapters and titles of the City of North St. Paul City Code. In addition, all signs, where appropriate, shall conform to the National Electric Code and the National Electrical Safety Code.

(P) *Enforcement.*

1. *Inspection.* Any sign for which a permit is required shall be inspected periodically by the city for compliance with this section and all other applicable laws.

2. *Removal of signs.* The city shall order the removal of any sign erected or maintained in violation of this section. Ten days' notice in writing shall be given to the owner of such sign, or of the building, structure or premises on which such sign is located, to either bring the sign into compliance with the ordinance or effect its removal. Upon failure to remove the sign or to comply with this notice, the city forces shall remove the sign. The city forces shall remove the sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any costs of removal incurred by the city shall be assessed to the owner of the property on which such sign is located and may be collected in the manner of ordinary debt or in the manner of taxes with all costs assessed against the property.

3. *Approved sign plans.* The city may enforce, in the same manner as the requirements of this section, the terms of a sign plan or sign covenants which it has approved. Any violation of an approved sign plan or sign covenants is a misdemeanor.

(Q) *Construction requirements.* All signs shall be constructed in such a manner and of such material so as to be considered safe and substantial. Nothing in this section shall be interpreted as authorizing the erection or construction of any sign not permitted under this subchapter.

(R) *Substitution clause.* Any sign allowed under this section may contain, in lieu of any other message or copy, any lawful noncommercial message or copy.

(S) *Severability.* If any section, subsection, paragraph, sentence, clause or phrase of this section or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court or competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this section or its application to any other person or situation.

(Ord. 739, passed 8-18-2015)

§ 154.012 VIOLATIONS AND MISDEMEANORS.

Any person, firm or corporation who shall violate any of the provisions of this chapter, who shall fail to comply with any of the provisions of this chapter or who shall make any false statement in any document required to be submitted under the provisions thereof shall be guilty of a misdemeanor and shall be punished as provided in M.S. § 462.362. Each day that a violation continues shall constitute a separate offense.

(Ord. 739, passed 8-18-2015)

APPENDIX A: TABLES

Table 1. Application Procedures

| Procedure | Text Amendm ent | Map Amendm ent | Compre hensive Plan Amendme nt | Conditio nal Use Permit | Interi m Use Permi t | Varia nce | Site Plan Revie w |
|-------------------------------|-----------------------|----------------------|---|-------------------------------|-------------------------------|--------------|----------------------------|
| Pre-Application Meeting | x | x | x | x | x | x | x |
| Submit Completed Application | x | x | x | x | x | x | x |
| Pay Filing Fee | x | x | x | x | x | x | x |
| Completeness Review | x | x | x | x | x | x | x |
| Public Notice Legal Newspaper | x | x | x | x | x | x | |
| Public Notice Property Owners | | x | | x | x | x | |
| Public Hearing | x | x | x | x | x | x | |
| Additional Commission Review | possible | possible | x | | | | possib le |
| Planning Commission | x | x | x | x | x | x | x |
| City Council | x | x | x | x | x | x | x |
| | | | | | | | |

| | | | | | | | |
|------------------------------|---|---|---|---|---|---|---|
| Applicant Notified of Action | x | x | x | x | x | x | x |
| Ordinance | x | x | | | | | |
| Resolution | | | x | x | x | x | x |
| Filing with the County | | x | | x | x | x | x |

Table 2. Submittal Requirements

| Submittal Requirements | | Text Amendm ent | Map Amendm ent | Comprehe nsive Plan Amendme nt | Conditio nal Use Permit | Interim Use Permit | Varia nce | Site Plan Revie w |
|--|------------------------------------|-----------------|----------------|--------------------------------|-------------------------|--------------------|-----------|-------------------|
| Completed City Application | | x | x | x | x | x | x | x |
| (2) 24" x 36" copies, two (2) 11" x 17" copies, and electronic files of the submittals completed and signed by a registered architect, civil engineer, landscape architect or other licensed design professional as approved by the City | | | x | | x | x | x | x |
| A current Certifica | Scale of Drawing | | x | | | | x | x |
| | Legal Descriptio n | | x | | | | x | x |
| | Dimension s of lot and north point | | x | | | | x | x |
| | Dimension | | | | | | | |

| | | | | | | | | |
|--|---|--|---|--|--|--|---|---|
| te of Survey prepared and signed by a Minneso ta licensed land surveyor , depictin g the followin g: | s of front, rear and side yards | | x | | | | x | x |
| | Indicate Buildable Area | | x | | | | x | x |
| | Dimension s of proposed driveway(s) | | x | | | | x | x |
| | Location of all existing buildings on the lot | | x | | | | x | x |
| | Location of the proposed building(s) or constructi on | | x | | | | x | x |
| A current Certifica | Location of stakes establishe d by the surveyor along each side lot line | | x | | | | x | x |
| | Location of all recorded and platted easements | | x | | | | x | x |
| | Two-foot contours and spot | | x | | | | x | x |

| | | | | | | | | |
|---|--|--|---|--|---|---|---|---|
| te of Survey prepared and signed by a Minneso ta licensed land surveyor , depictin g the followin g: | elevations | | | | | | | |
| | All encroachm ents | | x | | | | x | x |
| | Proposed drainage patterns | | x | | | | x | x |
| | Ponds, lakes, rivers or other water features bordering on or running through the subject property | | x | | | | x | x |
| | Locate and depict all "Significa nt Tree(s)" to be removed on the property | | x | | | | x | x |
| | Name and address of developer / owner | | | | x | x | x | x |
| | Name and address of architect/ designer | | | | x | x | x | x |
| | Date of plan preparatio | | | | x | x | x | x |

| | | | | | | | | |
|--|---|--|--|--|---|---|---|---|
| A Site Plan utilizing a copy of the current certificate of survey as a base for the subject property, depicting the following: | n | | | | | | | |
| | Dates and descriptions of all revisions | | | | X | X | X | X |
| | Name of project or development | | | | X | X | X | X |
| | Proposed front, rear and side yard setbacks | | | | X | X | X | X |
| | Location, setback, and dimensions of all proposed buildings and structures | | | | X | X | X | X |
| | Location of all adjacent buildings located within 100 feet of the exterior boundaries of the property in question | | | | X | X | X | X |
| | Location, number, and dimensions of | | | | X | X | X | X |

| | | | | | | | | |
|--|---|--|--|--|---|---|---|---|
| | proposed parking and loading spaces | | | | | | | |
| A Site Plan utilizing a copy of the current certificate of survey as a base for the subject property, depicting the following: | Sidewalks , trails, and walkways | | | | X | X | X | X |
| | Location of recreation and service areas | | | | X | X | X | X |
| | Location of rooftop equipment and proposed screening | | | | X | X | X | X |
| | Provisions of storage and disposal of waste, garbage and recyclables, including details for screening exterior trash/recycling enclosures | | | | X | X | X | X |
| | Location of any outdoor storage | | | | X | X | X | X |
| | | | | | | | | |

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|---|--|--|--|--|---|---|---|---|
| | Location, size, and type of water and sewer system mains, fire hydrants and proposed service connections | | | | X | X | X | X |
| A Parking and Circulation plan including location, width and setbacks of proposed curb cuts and driveways, dimensions and number of spaces, vehicular service points of ingress and egress and proposed vehicular circulation | | | | | | | | X |
| A Grading/Storm Water Management Plan | | | | | | | | X |
| Sanitary Sewer and Water Plan with estimated use per day | | | | | | | | X |
| Soil type and soil limitations for the intended use indicating the soil conservation practice to be used to overcome said limitations | | | | | | | | X |
| A Landscaping Plan including: Plant list including | | | | | | | | |

name, size and root condition (i.e. container or ball & burlap).

Site amenities, including bike racks, benches, trash receptacles, etc.

Storage areas including trash and loading.

Lighting (landscape, pedestrian or parking area).

Irrigation.

Hard surface materials.

Labeling of mulching, edging and curbing.

Areas of seeding and sodding.

Areas to remain undisturbed and limits of land disturbance.

Plants shall be depicted at their size at sixty percent (60%) of growth.

Existing trees eight (8) inches or more in diameter.

Existing and proposed utilities.

Site grading plan, including stormwater management or irrigation systems, if applicable.

| | | | | | | | | |
|--|---|--|--|--|--|--|--|---|
| A Lighting Plan illustrating the location of all proposed lighting units, light generated from the site and details of all proposed fixtures | | | | | | | | X |
| Architectural Detail Drawings including: | Elevations and Sections | | | | | | | X |
| | Color drawings or renderings | | | | | | | X |
| | Sample building materials of all principal and accessory buildings | | | | | | | X |
| | Type and color of materials used on all exterior surfaces | | | | | | | X |
| | Perspectives showing the new development or infill building in context of other buildings | | | | | | | X |

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|--|------------------------------------|---|---|---|---|---|---|---|
| | existing on or near the site | | | | | | | |
| Typical floor plan and room plan drawn to scale with a summary of square footage for each use or activity | | | | | X | X | | X |
| A Sign Plan including the type, location, and size of all proposed signage | | | | | | | | X |
| Vicinity map showing the property in relation to nearby highways or major street intersections | | | X | | | | | X |
| Type of business or activity and proposed number of employees | | | | | | | | X |
| Proof of ownership of Property | | | X | | X | X | X | X |
| Other submittals as required by specific zoning district | | X | X | X | X | X | X | X |
| Any additional data requested by the City | | X | X | X | X | X | X | X |

Table 3. Residential Use Districts

| Retail Sales and Services | R-1 | R-2 | R-3 | Supplemental Regulations |
|---------------------------|-----|-----|-----|--------------------------|
| Mortuary, Funeral Home | | | P | |
| Seasonal Business | I | I | I | |

| | | | | |
|---|------------|------------|------------|-------------------------------------|
| Commercial Recreation, Entertainment and Lodging | R-1 | R-2 | R-3 | Supplemental Regulations |
| Outdoor Recreation | C | C | C | X |
| Golf Course | C | C | C | X |

| | | | | |
|------------------------------------|------------|------------|------------|-------------------------------------|
| Residential - Family Living | R-1 | R-2 | R-3 | Supplemental Regulations |
| Manufactured Housing (Home Parks) | C | C | C | |
| Modular Building | P | P | P | |
| Multiple Family Dwelling | | | C | X |
| Planned Unit Development | P | P | P | |
| Single Family Dwelling | P | P | | |
| Special Infill Housing | C | C | C | X |
| Townhouse Dwelling | | P | P | X |
| Two Family Dwelling | | P | P | |

| | | | | |
|--|------------|------------|------------|-------------------------------------|
| Residential - Group Living | R-1 | R-2 | R-3 | Supplemental Regulations |
| Assisted Living and/or Memory Care Facility | | | C | X |
| Lodging House | | | P | |
| Senior Housing | | | C | X |
| Senior Housing with Services | | | C | X |
| State Licensed Residential Facility (serving six or fewer persons) | P | P | P | X |
| State Licensed Residential Facility (serving from 7-16 persons) | | | P | |

| | | | | |
|--------------------------------|------------|------------|------------|-------------------------------------|
| Civic and Institutional | R-1 | R-2 | R-3 | Supplemental Regulations |
| Cemetery | C | C | C | |
| | | | | |

| | | | | |
|--|---|---|---|---|
| Day Care Center, Day Nursery Institutions | C | C | C | X |
| Municipal Administrative Building, Fire Station or other Public Safety or Service Facilities | P | P | P | X |
| Schools, Public and Private | C | C | C | X |
| Public Park or Playground and Open Space | P | P | P | |

| Utility Uses | R-1 | R-2 | R-3 | Supplemental Regulations |
|--|-----|-----|-----|--------------------------|
| Essential Service Structure, including but not limited to buildings such as Telephone Exchange Substations, Booster or Pressure Regulating Stations, Wells and Pumping Stations and Elevated Tanks | C | C | C | X |

| Agricultural Uses | R-1 | R-2 | R-3 | Supplemental Regulations |
|-------------------|-----|-----|-----|--------------------------|
| Community Garden | I | I | I | |

| Accessory Uses and Structures | R-1 | R-2 | R-3 | Supplemental Regulations |
|---|-----|-----|-----|--------------------------|
| Accessory Buildings and Structures | P | P | P | X |
| Accessory Dwelling Unit | C | C | C | X |
| Dependency Living Arrangement | P | P | P | |
| Portable Storage Units | P | P | P | X |
| Temporary Buildings for storage of construction materials and equipment | P | P | P | X |
| Ground Source Heat Pump Systems | P | P | P | |
| | | | | |

| | | | | |
|--|-----|-----|-----|---|
| Solar Energy Systems | P | P | P | X |
| Temporary Outdoor Events | P | P | P | X |
| Yard Sales | P | P | P | X |
| Wind Energy Systems | C | C | C | X |
| Composting | P | P | P | |
| Day Care Facility (serving 12 or fewer persons) | P | P | P | |
| Day Care Facility (serving from 13 through 16 persons) | P | P | P | |
| Group Family Day Care (serving 14 or fewer children) | P | P | P | |
| Home Occupation | P/I | P/I | P/I | X |
| Rain Garden | P | P | P | X |
| Surface Parking | P | P | P | |
| Communication Structures | P | P | P | X |
| Tennis Court | P | P | P | |
| Residential Pools and Spas | P | P | P | X |

Permitted, conditional, and interim uses in the residential districts.

1. "P" means permitted in the districts where designated.
2. "C" means allowed as conditional uses in the districts where designated, in compliance with the applicable standards.
3. "I" means allowed as interim uses in the districts where designated, in compliance with the applicable standards.
4. "X" means there are specific requirements in Section 154.010 (D) associated with a use.

Table 4. Residential Districts Lot Requirements

| District | Minimum Lot Area | Minimum Lot Width | Setbacks | | |
|--|--|-------------------|------------|-----------|--|
| | | | Front Yard | Rear Yard | Side Yard |
| R-1 Single Family Residential District | 7,920 sq. ft. per dwelling unit Institutions: 10,000 sq. ft. Manufactured Houses (Home Parks): 5,000 sq. ft. per dwelling unit | 60 ft. | | | Internal Lot: 6 ft. Corner Lot: 15 ft. Senior Housing: |
| R-2 | 5,967 sq. ft. per dwelling unit Institutions: 10,000 sq. ft. | | | | Internal Lot: 15 ft. |

| | | | | | |
|--|---|--------|--------|--------|--|
| Mixed Residential District | Manufactured Houses (Home Parks): 5,000 sq. ft. per dwelling unit | | | | Corner Lot: 15 ft. |
| R-3 Multiple Family Residential District | 1,980 sq. ft. per dwelling unit Required total lot area shall not be less than the minimum lot area per dwelling unit multiplied by the number of units. Senior Housing: 1,800 sq. ft. per dwelling unit Institutions: 10,000 sq. ft. Manufactured Houses (Home Parks): 5,000 sq. ft. per dwelling unit | 80 ft. | 25 ft. | 25 ft. | Internal Lot: 15 ft. Corner Lot: 15 ft. |

Table 5. Residential Districts Design Requirements

| District | Maximum Height | Lot Coverage | Density | Minimum Livable Floor Space | Limit of Surfacing in Front Yard |
|--|--|--------------|------------------------------|--|----------------------------------|
| R-1 Single Family Residential District | Two (2) stories or 35 ft. in height , except flag poles, monuments and chimneys, church spires, belfries or domes which do not contain usable spaces, and radio and TV reception towers may extend to a maximum height of 45 ft. above the ground, City Water towers may extend to a height of 140 ft. Senior Housing: | 40% | Low (3 - 5.5 units/acre) | Single Family: One Story: 900 sq. ft. Two Story: 1,200 sq. ft. | |
| R-2 Mixed Residential | | | Medium (5.6 - 7.3 units/acre | Single Family: One Story: 900 sq. ft. Two Story: 1,200 sq. ft. | |

| | | | | | |
|--|--|-----|-----------------------------|---|-----|
| al District | Three (3) stories or 35 ft. in height. Accessory Building: 15 ft. except for Accessory Dwelling Unit, then 20 ft. | 50% |) | Two Family: 900 sq. ft. | 40% |
| R-3 Multiple Family Residential District | Three (3) stories or 35 ft. in height, except flag poles, monuments and chimneys, church spires, belfries or domes which do not contain usable spaces, and radio and TV reception towers may extend to a maximum height of 45 ft. above the ground, City Water towers may extend to a height of 140 ft. Separate height restrictions exist for accessory buildings. | | High (7.4 - 22 units/acre) | Multiple Family: Efficiency Unit: 400 sq. ft. One Bedroom: 550 sq. ft. Two Bedroom: 700 sq. ft. Three Bedroom: 850 sq. ft. Four Bedroom: 1000 sq. ft. Two Family: 900 sq. ft. | |

Table 6. Mixed Use Districts

| Offices | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|--|-------------|-------------|-------------|---------------------------------|
| Artist, Photographer Studio, etc. | P | P | P | |
| Insurance Office, Real Estate Office, Sales Office | P | P | P | |
| Office | P | P | P | X |

| Medical Facilities | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|---------------------------|-------------|-------------|-------------|---------------------------------|
| Clinic - Health | P | P | P | |
| Hospital | | | P | X |
| Medical Laboratory | P | | P | |
| | | | | |

| | | | | |
|--|---|---|---|--|
| Physical, Occupational or Massage Therapy | P | P | P | |
| Animal or Veterinary Hospital or Clinic | | | P | |

| Retail Sales and Services | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|--|-------------|-------------|-------------|---------------------------------|
| Animal: Boarding Facility, Kennel, Shelter, Day Care | | | C | X |
| Animal Grooming | P | P | P | X |
| Auction Rooms | P | P | P | |
| Bank, Financial Institutions | P | P | P | X |
| Body Art Establishment | P | P | P | X |
| Business Sales and Services | P | P | P | |
| Contractor's Business with Showroom or Workshop | | | P | |
| Drive-In or Self-Service Business | C | P | P | X |
| Dry Cleaning, Commercial Laundry | P | P | P | |
| Farmer's Market | P | P | P | |
| Furniture and Household Goods Sales | P | P | P | |
| Garden Center | C | C | P | X |
| Greenhouse, Nursery | C | C | P | X |
| Retail Sales and Service Uses | P | P | P | X |
| Grocery Store and Produce Store | P | P | P | |
| Laundromat, Self-Service | P | P | P | |
| Liquor Store | P | P | P | |
| Mortuary, Funeral Home | C | C | C | |
| Package Delivery Service | | | P | |
| Payday Loan Business | | | C | |
| Photocopying | P | P | P | |
| Post Office | P | P | P | |
| Seasonal Business | I | I | I | |
| Secondhand Goods Sales | P | P | P | |
| Small Appliance Repair | P | P | P | |

| | | | | |
|---------------------------------|---|---|---|--|
| Sporting Goods Store, Bait Shop | P | P | P | |
| Tobacco Sampling | | | | |

| Food and Beverages | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|--|------|------|------|--------------------------|
| Catering | P | P | P | |
| Coffee Shop, Tea House | P | P | P | |
| Restaurant | P | P | P | |
| Restaurant-Tavern | P | P | P | |
| Brewery, Micro-Brewery, Micro-Distillery, Micro-Winery, Tap Room | P | P | P | |

| Commercial Recreation, Entertainment and Lodging | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|--|------|------|------|--------------------------|
| Bed and Breakfast Establishment | | P | P | X |
| Health/Sports Club | P | P | P | |
| Hotel, Inn | | C | P | |
| Indoor Recreation | P | P | P | X |
| Lodge, Private Club, Reception Hall | P | C | C | X |
| Outdoor Recreation | | | C | X |
| Golf Course | | | C | X |
| Adult Uses | | | C | X |
| Theater, Assembly Hall, Concert Hall | P | P | P | |

| Automobile Service | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|---|------|------|------|--------------------------|
| Automobile Body Shop or Automobile Repair Station | | | C | X |
| Automobile Sales and Rental | | | C | X |
| Automobile Service Station/Convenience Store | C | C | C | X |
| | | | | |

| | | | | |
|----------|--|--|---|---|
| Car Wash | | | C | X |
|----------|--|--|---|---|

| Parking, Storage and Display Facilities | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|--|-------------|-------------|-------------|---------------------------------|
| Parking Facility, Private | P | P | C | |
| Parking Facility, Public | P | P | C | |

| Transportation | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|-------------------------------|-------------|-------------|-------------|---------------------------------|
| Taxicab or Limousine Business | P | P | P | |

| Limited Production, Processing and Storage | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|---|-------------|-------------|-------------|---------------------------------|
| Artisan Workshop | P | P | P | |
| Laboratory, Research and Development | P | P | P | |
| Limited Production and Processing | P | P | P | X |
| Printing and Publishing | | | P | |
| Warehousing/Storage | | | P | X |
| Warehousing as Primary Use of Space | | | | |
| Wholesale Establishment | P | P | P | |

| Other Uses | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|---|-------------|-------------|-------------|---------------------------------|
| Uses determined by the Community Development Department to be of similar scale, impact and character. | P | P | P | |

| Residential - Family Living | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|------------------------------------|-------------|-------------|-------------|---------------------------------|
|------------------------------------|-------------|-------------|-------------|---------------------------------|

| | | | | |
|---|---|---|---|---|
| Multiple Family Dwelling | | | P | X |
| Planned Unit Development | P | P | P | |
| Townhouse Dwelling | | | P | X |
| Live/Work Unit | C | C | C | X |
| Residential Unit over Nonresidential Use | P | P | P | |

| Residential - Group Living | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|--|-------------|-------------|-------------|-------------------------------------|
| Assisted Living and/or Memory Care Facility | | | C | X |
| Lodging House | | C | C | X |
| Senior Housing | C | | C | X |
| Senior Housing with Services | C | | C | X |
| State Licensed Residential Facility (serving six or fewer persons) | C | C | C | X |
| State Licensed Residential Facility (serving from 7-16 persons) | C | C | C | |

| Civic and Institutional | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|---|-------------|-------------|-------------|-------------------------------------|
| Day Care Center, Day Nursery | C | C | C | X |
| Institutions | C | C | C | X |
| Municipal Administrative Building, Fire Station or other Public Safety or Service Facilities | P | | P | X |
| Schools, Public and Private | P | P | P | X |
| Public Park or Playground and Open Space | | | P | |

| Utility Uses | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|---------------------|-------------|-------------|-------------|-------------------------------------|
| | | | | |

| | | | | |
|--|---|---|---|---|
| Essential Service Structure, including but not limited to buildings such as Telephone Exchange Substations, Booster or Pressure Regulating Stations, Wells and Pumping Stations and Elevated Tanks | P | P | P | X |
|--|---|---|---|---|

| Agricultural Uses | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|-------------------|------|------|------|--------------------------|
| Community Garden | I | I | I | |

| Accessory Uses and Structures | MU-1 | MU-2 | MU-3 | Supplemental Regulations |
|--|------|------|------|--------------------------|
| Accessory Buildings and Structures | | | P | X |
| Ground Source Heat Pump Systems | P | P | P | |
| Solar Energy Systems | P | P | P | X |
| Temporary Outdoor Events | P | P | P | X |
| Temporary Outdoor Events (greater than 45 days) | C | C | C | X |
| Vending Machines | P | P | P | |
| Wind Energy Systems (excess height) | C | C | C | X |
| Wind Energy Systems | P | P | P | X |
| Day Care Facility (serving 12 or fewer persons) | P | P | P | |
| Day Care Facility (serving from 13 through 16 persons) | P | P | P | |
| Group Family Day Care serving 14 or fewer children | P | P | P | |
| Home Occupation | P/I | P/I | P/I | X |
| Outdoor Storage | C | C | C | X |
| Rain Garden | P | P | P | X |
| Bulk Storage (liquid) | | | P | X |
| Communication Structures | P | P | P | X |
| | | | | |

| | | | | |
|-----------------|---|---|---|---|
| Outdoor Seating | P | P | P | X |
| Outdoor Display | P | P | P | X |

Permitted, conditional, and interim uses in the residential districts.

1. "P" means permitted in the districts where designated.
2. "C" means allowed as conditional uses in the districts where designated, in compliance with the applicable standards.
3. "I" means allowed as interim uses in the districts where designated, in compliance with the applicable standards.
4. "X" means there are specific requirements in Section 154.010 (D) associated with a use.

Table 7. Mixed-Use Districts Lot Requirements

| District | Minimum Lot Size | Lot Width | Front Yard Setback | Side Yard Setback | Rear Yard Setback | Maximum Height |
|--|------------------|-----------|--------------------|--|-------------------|--|
| MU-1 Downtown Mixed-Use District | 0 sq. ft. | 20 ft. | 0 ft. | 0 ft. When abutting a Residential District 20 ft. | 0 ft. | Three (3) stories or 35 ft. New mixed use buildings with residential units above nonresidential, office or service uses may be up to four (4) stories or 50 ft. |
| MU-2 Transitional Mixed-Use District | 15,000 sq. ft. | 65 ft. | 30 ft. | Interior Lot: 15 ft. Corner Lot: 30 ft. | 30 ft. | Three (3) stories or 35 ft. |
| MU-3 Corridor Mixed-Use District | 35,000 sq. ft. | 120 ft. | 25 ft. | 0 ft. | 0 ft. | Five (5) stories or 55 ft. |

Table 8. Off-Street Parking and Loading Requirements

| Uses | Number of Required Parking Spaces | |
|--|--|------------------------|
| PARKING-RELATED DEFINITIONS Gross floor area (GFA): Total gross floor area including exterior building walls of all floors of a building or structure. Also referred to as gross square feet, or GSF. Gross leasable area (GLA): The portion of GFA that is available for leasing to a tenant. Net floor area (NFA): Total floor area, excluding exterior building walls. Net rental area (NRA): The portion of NFA that is rentable to a tenant. Also called net leasable area. ksf = 1,000 square feet The total number of parking spaces = the total square footage, divided by ksf, mutliplied by the parking value | | |
| Residential | | |
| Single Family Dwelling Residential- Family Living | Single Family Dwelling Unit Multifamily Dwelling Unit | 2 per dwelling unit |
| Multiple Family Dwelling Residential- Family Living | | |
| Manufactured Housing (Home Parks) Residential- Family Living | | |
| Modular Building Residential- Family Living | | |
| Planned Unit Development Residential- Family Living | | |
| Special Infill Housing Residential- Family Living | | |
| Townhouse Dwelling Residential- Family Living | | |
| Two Family Dwelling Residential- Family Living | | |
| Live-Work Unit Residential- Family Living | | |
| Residential Unit over Nonresidential Use Residential- Family Living | Single Family Dwelling Unit Multifamily Dwelling Unit | 2 per dwelling unit |
| | Studio | 1.25 per dwelling unit |
| | One bedroom | 1.5 per dwelling unit |
| | Two or more bedrooms | 2 per dwelling unit |

| | | |
|---|---|--|
| Accessory Dwelling Unit Accessory Use | Accessory Dwelling Unit (ADU) | 1 space per dwelling unit |
| Lodging House Commercial Recreation, Entertainment and Lodging | Sleeping Rooms | 1 space per unit or room plus 2 for owner/manager |
| Hotel, Inn Commercial Recreation, Entertainment and Lodging | Commercial Lodgings | 1.25 per guest room, plus 10 per ksf restaurant/lounge, plus 30 per ksf meeting/banquet room (<50 ksf per guest room) or 20 per ksf meeting/banquet room (<50 ksf per guest room) <i>Peak spaces for each component shown; use shared parking analysis to determine appropriate parking ratio for particular hotel.</i> |
| Bed and Breakfast Establishment Commercial Recreation, Entertainment and Lodging | | |
| Senior Housing Residential- Group Living | Elderly Housing, Independent Living | 0.6 per dwelling unit |
| Assisted Living and/or Memory Care Facility Residential- Group Living | Elderly Housing, Assisted Living | One space for each five residents, based on the building design and operational needs. |
| Senior Housing with Services Residential- Group Living | | |
| State Licensed Residential Facility (serving six or fewer persons) Residential- Group Living | Group, Convalescent, and Nursing Homes | One parking space for each four beds for which accommodations are offered. |
| State Licensed Residential Facility (serving from 7-16 persons) Residential- Group Living | Group, Convalescent, and Nursing Homes | One parking space for each four beds for which accommodations are offered. |
| Day Care Center Civic and Institutional | Day Care Center | Two parking spaces, plus one space for every five participants based on the building design. |
| Hospital Medical Facilities | Hospital/Medical Center | One parking space for each 350 square feet of |

gross floor area.

| Uses | Number of Required Parking Spaces | |
|--|---|-----------------|
| PARKING-RELATED DEFINITIONS Gross floor area (GFA): Total gross floor area including exterior building walls of all floors of a building or structure. Also referred to as gross square feet, or GSF. Gross leasable area (GLA): The portion of GFA that is available for leasing to a tenant. Net floor area (NFA): Total floor area, excluding exterior building walls. Net rental area (NRA): The portion of NFA that is rentable to a tenant. Also called net leasable area. ksf = 1,000 square feet The total number of parking spaces = the total square footage, divided by ksf, multiplied by the parking value | | |
| Retail/Service | | |
| General Retail Retail Sales and Services | General Retail (not in shopping center) | 3.5 per ksf GFA |
| Seasonal Business Retail Sales and Services | | |
| Liquor Store Retail Sales and Services | | |
| Secondhand Goods Sales Retail Sales and Services | | |
| Service Business Retail Sales and Services | | |
| Sporting Goods Store, Bait Shop Retail Sales and Services | | |
| Business Sales and Services Retail Sales and Services | | |
| Animal Boarding Facility, Kennel, Shelter, Day Care Retail Sales and Services | | |
| Animal Grooming Retail Sales and Services | General Retail (not in shopping center) | 3.5 per ksf GFA |
| Photocopying Retail Sales and Services | | |
| Package Delivery Service Retail Sales and Services | | |

| | | |
|---|--|---|
| Mortuary, Funeral Home Retail Sales and Services | | |
| Garden Center Retail Sales and Services | | |
| Food and Related Good Sales Retail Sales and Services | Grocery (freestanding) | 6.0 per ksf GFA |
| | Discount Superstores/Clubs (Freestanding) | 6.0 per ksf GFA |
| | Home Improvement Superstores | 5.0 per ksf GFA |
| Farmer's Market Retail Sales and Services | Shopping Centers | 4.0 per ksf GLA up to 400ksf; 4.0 to 4.5 per ksf GLA sliding scale between 400 and 600ksf; 4.5 per ksf GLA over 600 ksf <i>With up to 10 percent GLA in dining/entertainment; over 10 percent, use shared parking analysis.</i> |
| Dry Cleaning, Commercial Laundry Retail Sales and Services | Personal Care Services | One space per 250 square feet of floor area. If the sales area is for large goods, for example, carpeting, furniture, large appliances, the requirement is one space per 700 square feet of floor area. |
| Laundromat, Self-Service Retail Sales and Services | Coin-Operated Laundries | 1 per 2 washing and drying machines |
| Auction Rooms Retail Sales and Services | Other Heavy/Hard Goods (Furniture, Appliances, Building Materials, etc.) | 3.0 per ksf GFA |
| Contractor's Business with Showroom or Workshop Retail Sales and Services | Other Heavy/Hard Goods (Furniture, Appliances, Building Materials, etc.) | 3.0 per ksf GFA |
| Furniture and Household Goods Sales Retail Sales and Services | | |
| Small Appliance Repair | | |

| | | |
|--|---------------------------------|--|
| Retail Sales and Services | | |
| Auto Body Shop or Auto Repair Station Automobile Services | Motor Vehicle Sales and Service | 2.7 per ksf GFA interior sales area, plus 1.5 ksf GFA interior or storage/display area, plus 2 per service bay |
| Auto Sales and Rental Automobile Services | | |
| Auto Service Station/Convenience Store Automobile Services | | |
| Car Wash Automobile Services | Motor Vehicle Laundries | 2, plus 1 per each 2 peak shift employees |

| Uses | Number of Required Parking Spaces | |
|--|-----------------------------------|--------------------|
| PARKING-RELATED DEFINITIONS Gross floor area (GFA): Total gross floor area including exterior building walls of all floors of a building or structure. Also referred to as gross square feet, or GSF. Gross leasable area (GLA): The portion of GFA that is available for leasing to a tenant. Net floor area (NFA): Total floor area, excluding exterior building walls. Net rental area (NRA): The portion of NFA that is rentable to a tenant. Also called net leasable area. ksf = 1,000 square feet The total number of parking spaces = the total square footage, divided by ksf, mutliplied by the parking value | | |
| Food and Beverage | | |
| | Fine Dining | 21.5 per ksf GFA 3 |
| Restaurant-Tavern Food and Beverages | Causal Restaurant (with bar) | 22.5 per ksf GFA 3 |
| Tavern, Brewery, Micro-Brewery, Micro-Distillery, Micro-Winery, Tap Room Food and Beverages | | |
| Restaurant Food and Beverages | Family Restaurant (without bar) | 16.0 per ksf GFA 3 |
| Coffee Shop, Tea House Food and Beverages | Family Restaurant (without bar) | 16.0 per ksf GFA 3 |
| | Fast Food | 15.0 per ksf GFA 3 |

| Uses | | Number of Required Parking Spaces |
|--|--|-----------------------------------|
| PARKING-RELATED DEFINITIONS Gross floor area (GFA): Total gross floor area including exterior building walls of all floors of a building or structure. Also referred to as gross square feet, or GSF. Gross leasable area (GLA): The portion of GFA that is available for leasing to a tenant. Net floor area (NFA): Total floor area, excluding exterior building walls. Net rental area (NRA): The portion of NFA that is rentable to a tenant. Also called net leasable area. ksf = 1,000 square feet The total number of parking spaces = the total square footage, divided by ksf, multiplied by the parking value | | |
| Office and Business Services | | |
| General Office Offices | General Business Offices Suburban/Low-Rise | 3.6 per ksf GFA |
| Insurance Office, Real Estate Office, Sales Office Offices | Office Downtown/Mid-High-Rise Business Center | 3.0 per ksf GLA |
| Artist, Photographer Studio, etc. Offices | | |
| Artisan Workshop Limited Production, Processing and Storage | | |
| | Data Processing/Telemarketing /Operations | 6.0 per ksf GLA |
| Clinic - Health Medical Facilities | Medical Offices (multitenant) | 4.5 per ksf GLA |
| Veterinary Clinic, Animal Hospital Medical Facilities | Clinic (medical offices with outpatient treatment; no overnight stays) | 5.5 per ksf GLA |
| Physical, Occupational or Massage Therapy Medical Facilities | | |
| Medical Laboratory Medical Facilities | | |
| Payday Loan Business Retail Sales and Services | Bank Branch with Drive-In | 5.5 per ksf GLA |
| Bank, financial institution Retail Sales and Services | Bank Headquarters (with admin offices, etc.) | 4.4 per ksf GLA |
| | | |

| | | |
|--|--|-----------------|
| Wholesale Establishment Limited Production, Processing and Storage | Industrial/ Storage/Wholesale Utility Add spaces as required for office, sales, or similar use where more than 10 percent GFA | 2.0 per ksf GLA |
| Limited Production and Processing Limited Production, Processing and Storage | Manufacturing/Light Industrial (single use) | 1.5 per ksf |
| Printing and Publishing Limited Production, Processing and Storage | | |
| Catering Food and Beverages | Industrial Park (multitenant or mix of service, warehouse) | 2.0 per ksf |
| Laboratory, Research and Development Limited Production, Processing and Storage | | |
| Warehousing and storage Limited Production, Processing and Storage | Warehouse | 0.7 per ksf GLA |
| Warehousing as primary use of space Limited Production, Processing and Storage | Mini-Warehouse | 0.25 per ksf |

| Uses | Number of Required Parking Spaces | |
|--|-----------------------------------|--|
| PARKING-RELATED DEFINITIONS Gross floor area (GFA): Total gross floor area including exterior building walls of all floors of a building or structure. Also referred to as gross square feet, or GSF. Gross leasable area (GLA): The portion of GFA that is available for leasing to a tenant. Net floor area (NFA): Total floor area, excluding exterior building walls. Net rental area (NRA): The portion of NFA that is rentable to a tenant. Also called net leasable area. ksf = 1,000 square feet The total number of parking spaces = the total square footage, divided by ksf, multiplied by the parking value | | |
| Governmental | | |
| Municipal Administrative | | |

| | | |
|--|---------------------------------------|-----------------|
| Building, Fire Station or other Public Safety or Service Facilities Civic and Institutional | Library | 4.5 per ksf GFA |
| Post Office Retail Sales and Services | As determined by Zoning Administrator | |
| Public Park or Playground and Open Space Civic and Institutional | As determined by Zoning Administrator | |
| Cemetery Civic and Institutional | | |

| Uses | Number of Required Parking Spaces | |
|--|-------------------------------------|---|
| PARKING-RELATED DEFINITIONS Gross floor area (GFA): Total gross floor area including exterior building walls of all floors of a building or structure. Also referred to as gross square feet, or GSF. Gross leasable area (GLA): The portion of GFA that is available for leasing to a tenant. Net floor area (NFA): Total floor area, excluding exterior building walls. Net rental area (NRA): The portion of NFA that is rentable to a tenant. Also called net leasable area. ksf = 1,000 square feet The total number of parking spaces = the total square footage, divided by ksf, multiplied by the parking value | | |
| Educational | | |
| Schools, Public and Private Civic and Institutional | Elementary and Secondary Schools | One parking space for each classroom plus one parking space for each seven students based upon design capacity. |
| | College and University | Determined by parking study specific to subject institution |

| Uses | Number of Required Parking Spaces |
|---|-----------------------------------|
| PARKING-RELATED DEFINITIONS Gross floor area (GFA): Total gross floor area including exterior building walls of all floors of a building or structure. Also referred to as gross square feet, or GSF. | |

Gross leasable area (GLA): The portion of GFA that is available for leasing to a tenant.

Net floor area (NFA): Total floor area, excluding exterior building walls.

Net rental area (NRA): The portion of NFA that is rentable to a tenant. Also called net leasable area.

ksf = 1,000 square feet

The total number of parking spaces = the total square footage, divided by ksf, multiplied by the parking value

| Cultural/Recreational/Entertainment | | |
|---|--|---|
| Institutions Civic and Institutional | Religious Centers | One parking space for each four seats based on the design capacity of the main seating area or areas. |
| | Public Assembly | One parking space for each three seats based upon design capacity. |
| | Arenas and Stadiums | |
| Theater, Assembly Hall, Concert Hall Commercial Recreation, Entertainment and Lodging | Theaters (live performance) | |
| Sexually Oriented Business or Adult Uses Commercial Recreation, Entertainment and Lodging | Cinemas | Single-Screen: 0.5 per seat; Up to 5 screens: 0.33 per seat 5 to 10 screens: 0.3 per seat; Over 10 screens: 0.27 per seat |
| | Museum | 1.5 per 1,000 annual visitors |
| Recreational, Community, and Neighborhood Centers Commercial Recreation, Entertainment and Lodging | Health Clubs and Recreational Facilities | At least 15 spaces, plus one additional space for each 300 square feet of floor area over 2,000 square feet. |
| Health/Sports Club Commercial Recreation, Entertainment and Lodging | Health Clubs and Recreational Facilities | At least 15 spaces, plus one additional space for each 300 square feet of floor area over 2,000 square feet. |
| Golf Course Commercial Recreation, Entertainment and Lodging | | |
| Indoor Recreation Commercial Recreation, Entertainment and Lodging | | |
| Outdoor Recreation | | |

| | | |
|---|--|--|
| Commercial Recreation, Entertainment and Lodging | | |
|---|--|--|

Table 9. Architectural Building Materials

| Building Materials | Trim/Accent Material | Top of Building | Middle of Building | Base/Bottom of Building | Standards (See footnotes) |
|-------------------------------------|-----------------------------|------------------------|---------------------------|--------------------------------|----------------------------------|
| Brick (Face/Veneer) | X | X | X | X | |
| Architectural Block | X | X | X | X | A |
| Wood/Wood Composite | X | X | X | | |
| Fiber-Cement Siding/Panels | X | X | X | X | |
| Concrete Panels, Tilt-up or Precast | X | X | X | X | B |
| EIFS/Stucco | X | X | | | C |
| Stone/Stone Veneer | X | X | X | X | |
| Metal Panels | X | X | X | X | D |
| Vinyl Siding | X | | | | E |
| Reflective Glass/ Spandrel | X | | | | F |

A - Shall be used in conjunction with a palette of materials and shall not comprise more than 33% of any building wall adjacent to a public street or walkway.

B - Shall incorporate horizontal and vertical articulation and modulation, including but not limited to changes in color and texture, or as part of a palette of materials.

C - Shall not be within three feet of the ground or used in heavily trafficked pedestrian areas or where high pedestrian traffic is anticipated.

D - Shall be used in conjunction with a palette of materials; shall be heavy gauge metal, and; shall be non-reflective.

E - Shall be used in limited quantities due to its limited durability.

F - Shall be used in limited quantities as an accent material.

Table 10. Signs - Mixed Use Districts

| District | Max sign height | Window signs | Wall signs | Monument sign max sign face | Projecting sign max sign face | Free-standing signs max sign face | Awning / canopy signs | Sq. ft max aggregate or total sign area |
|-----------------|------------------------|---------------------|-------------------|------------------------------------|--------------------------------------|--|------------------------------|--|
|-----------------|------------------------|---------------------|-------------------|------------------------------------|--------------------------------------|--|------------------------------|--|

| | | | | | | | | | |
|-------------|---------------------|-------|-------------------------------|---|------------------------------|--------------------------|---|--|--------|
| | | | | | | | | | |
| MU-1 | 0-10,000 sq ft | 25 ft | 20% of the window glass area. | 10% of the wall area or 80 sq ft whichever is less. | Institutional Use: 75 sq ft | 12 sq ft, 3 ft width max | (1) sign is allowed per building street frontage. 30 sq ft. | Max Length: 25 ft Min Clearance: 8 ft Max Height: 12 ft Min Depth: 3 ft Max Depth 6 ft | 150 sq |
| | 10,000-20,000 sq ft | | | 10% of the wall area or 90 sq ft whichever is less. | Institutional Use: 100 sq ft | | (1) sign is allowed per building street frontage. 60 sq ft. | | 200 sq |
| | OVER 20,000 sq ft | | | 10% of the wall area or 100 sq ft whichever is less. | Institutional Use: 150 sq ft | | (1) sign is allowed per building street frontage. 90 sq ft. | | 250 sq |
| MU-2 | 0-20,000 sq ft | | | 10% of the wall area or 90 sq ft whichever is less. | 40 sq ft | | (1) sign is allowed per building street frontage. 60 sq ft. | | 200 sq |
| | OVER 20,000 sq ft | | | 10% of the wall area or 100 sq ft whichever is less. | 80 sq ft | | (1) sign is allowed per building street frontage. 90 sq ft. | | 250 sq |
| | 0-50,000 sq ft | | | 2 sq ft for every linear foot of front of bldg. Max 150 sq ft | 100 sq ft | | (1) sign is allowed per building street frontage. | | 200 sq |

| | | | | | | | | | |
|-------------|-------------------------|-------|-------------------------------|---|-----------|--------------------------|--|--|--------|
| MU-3 | 50,000-100,000 sq ft | 25 ft | 20% of the window glass area. | 2 sq ft for every linear foot of front of bldg. Max 200 sq ft | 150 sq ft | 12 sq ft, 3 ft width max | 100 sq ft. (1) sign is allowed per building street frontage. 120 sq ft. | Max Length: 25 ft Min Clearance: 8 ft Max | 250 sq |
| | 100,000 - 200,000 sq ft | | | 2 sq ft for every linear foot of front of bldg. Max 250 sq ft | 150 sq ft | | (1) sign is allowed per building street frontage. 140 sq ft. | Max Height: 12 ft Min Depth: 3 ft Max Depth 6 ft | 300 sq |
| | OVER 200,000 sq ft | | | 2 sq ft for every linear foot of front of bldg. Max 300 sq ft | 200 sq ft | | (1) sign is allowed per building street frontage. 160 sq ft. | | 400 sq |

Table 11. Signs - Residential Districts

| District | Institutional use sign (parks, playgrounds, churches, libraries, municipal bldgs, etc) | Max total sign area allowed | Max sign height | Monument sign max sign face | Sq. ft. max aggregate or total sign area |
|------------|--|-----------------------------|-----------------|-----------------------------|--|
| R-1 | 60 sq ft | 2 sq ft name plate | 6 ft | — | Residential: 2 sq ft |
| R-2 | | | | | name plate Institutional: 60 sq ft |
| | | | | | Residential: 24 sq ft |

| | | | | | |
|-----|--|----------|--|----------|-------------------------|
| R-3 | | 24 sq ft | | 24 sq ft | Institutional: 60 sq ft |
|-----|--|----------|--|----------|-------------------------|

APPENDIX B: FIGURES

FIGURE 1. Awning

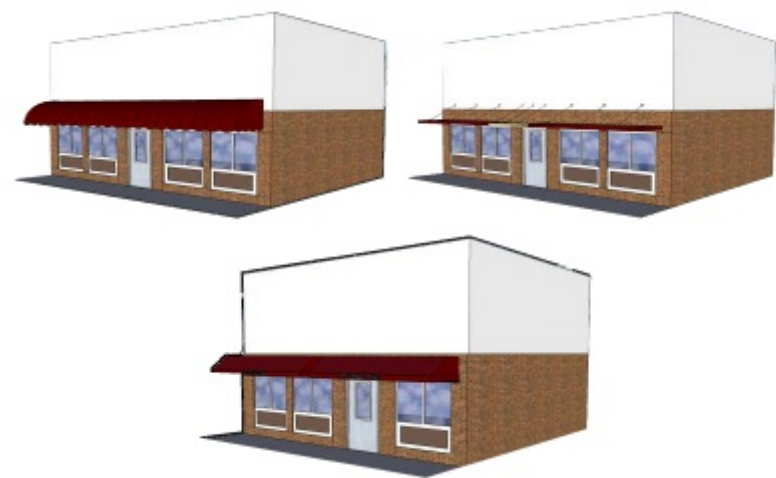


FIGURE 2. Block, Front

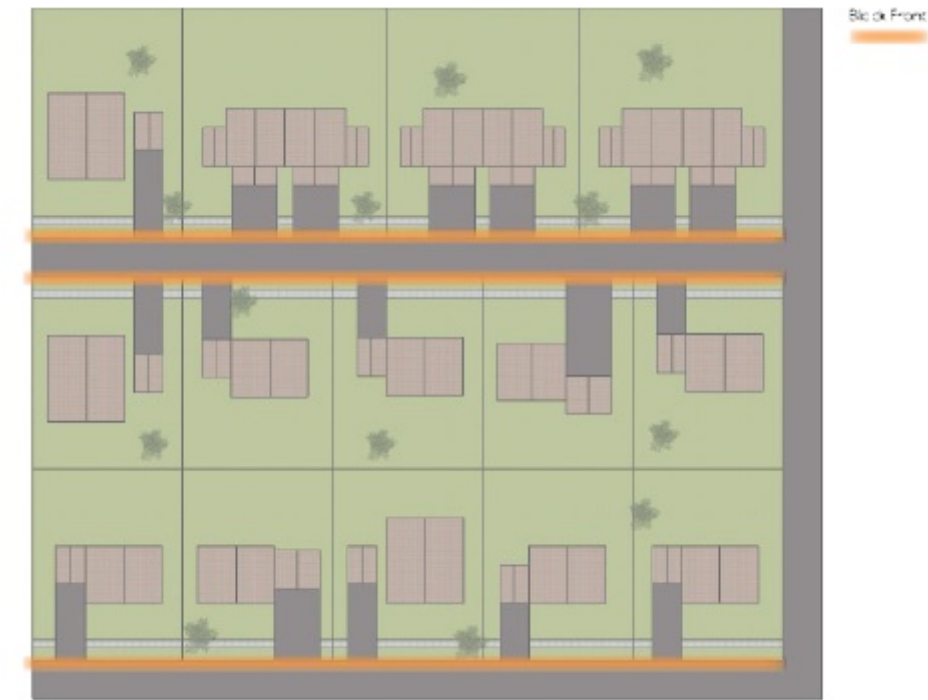


FIGURE 3. Buffer



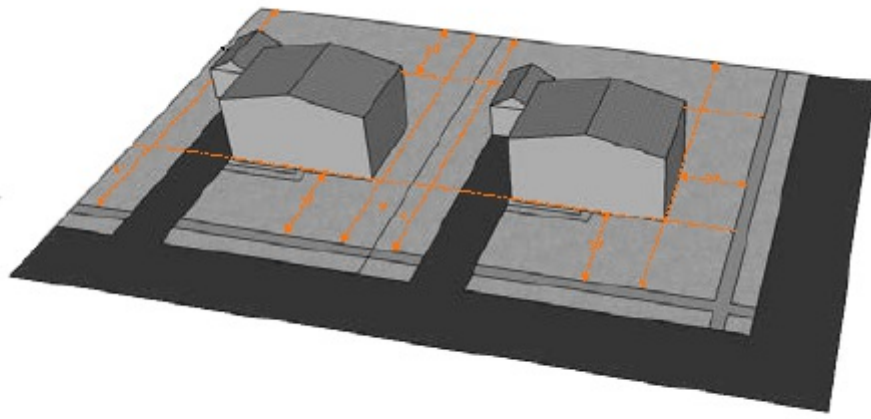
FIGURE 4. Build-To-Line



FIGURE 5. Building Or Structure, Accessory



FIGURE 6. Building Line



Building Setback Line

FIGURE 7. Canopy



FIGURE 8. Carport



Attached



Detached

FIGURE 9. Deck

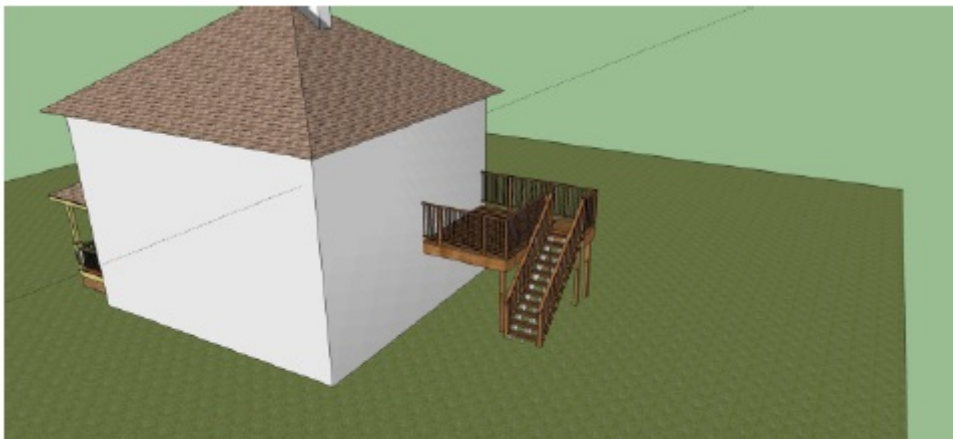


FIGURE 10. Depth Of Rear Yard

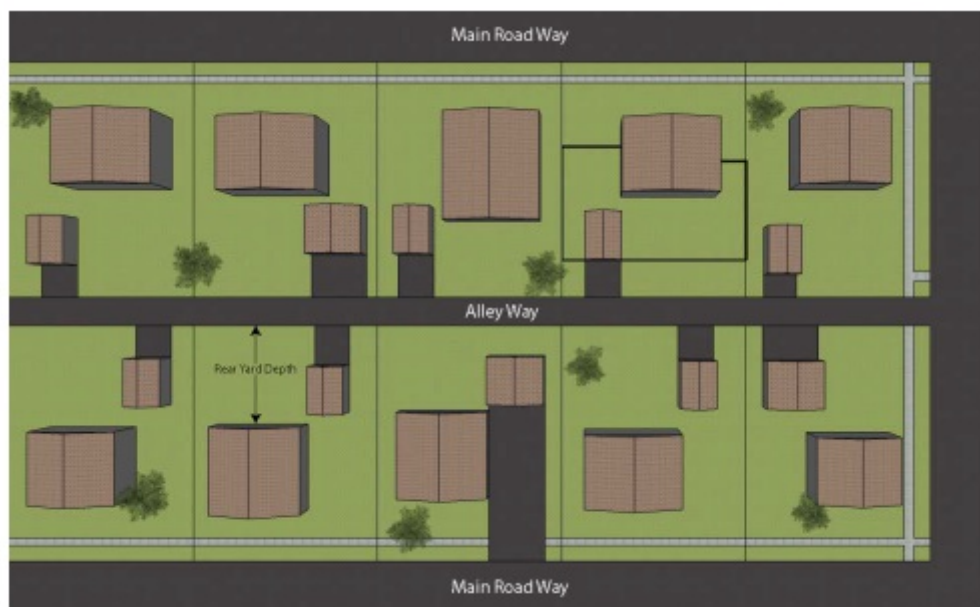


FIGURE 11. Dwelling, Multiple Family

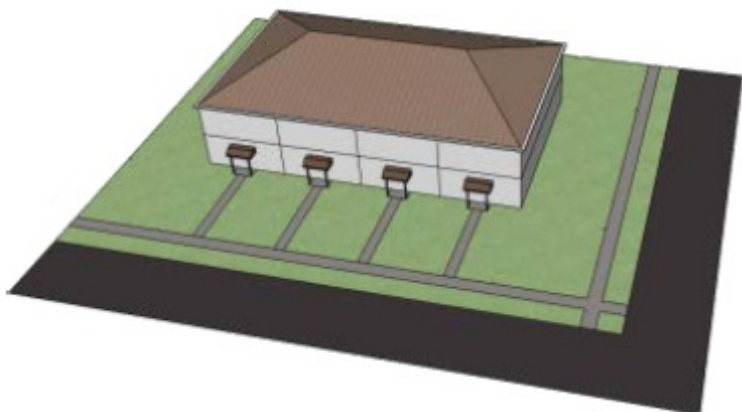


FIGURE 12. Dwelling, Single Family

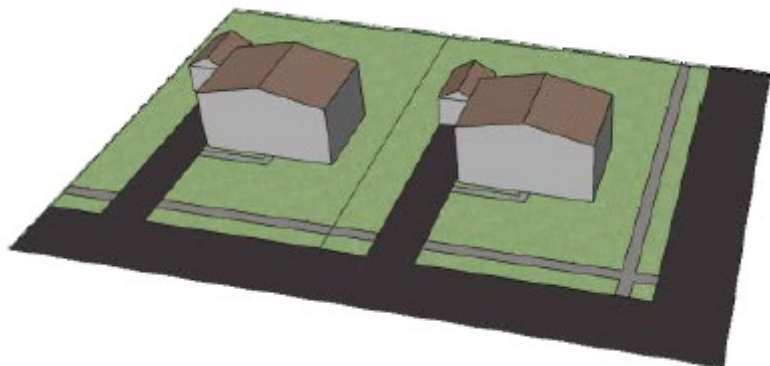
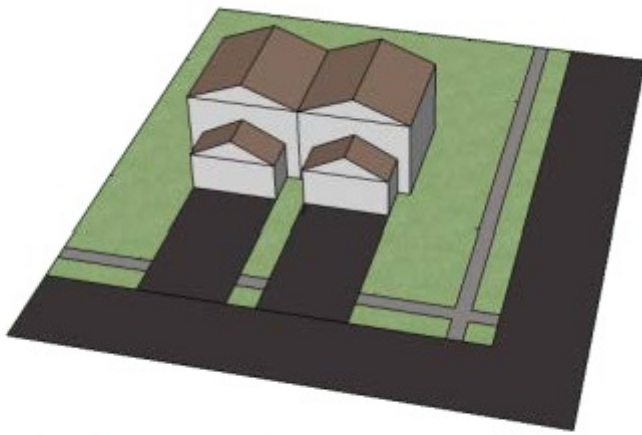


FIGURE 13. Dwelling, Two Family

Two dwelling units on one lot



Two dwelling units on one lot

FIGURE 14. Floor Area Ratio (Far)

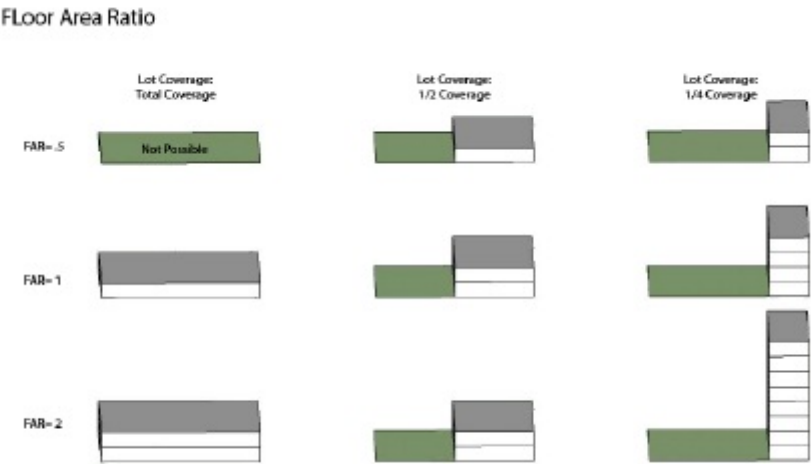


FIGURE 15. Lot, Corner

Lot, Double

Frontage/Lot

Through

Lot, Interior.



FIGURE 16. Porch



FIGURE 17. Setback Front, Rear & Side

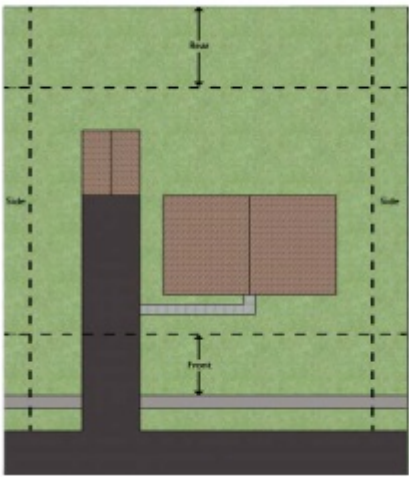


FIGURE 18. Sign (Types)

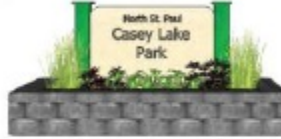
Signs



Billboard



Directional



Monument



Informational



Marquee



Painted Wall Sign



Projection



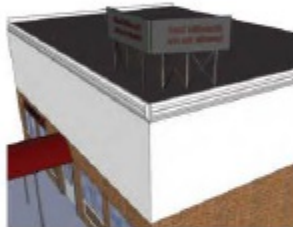
Public



Pylon



Real Estate



Rooftop Billboard



Temporary



Wall



Window

FIGURE 19. Residential Lot Requirements

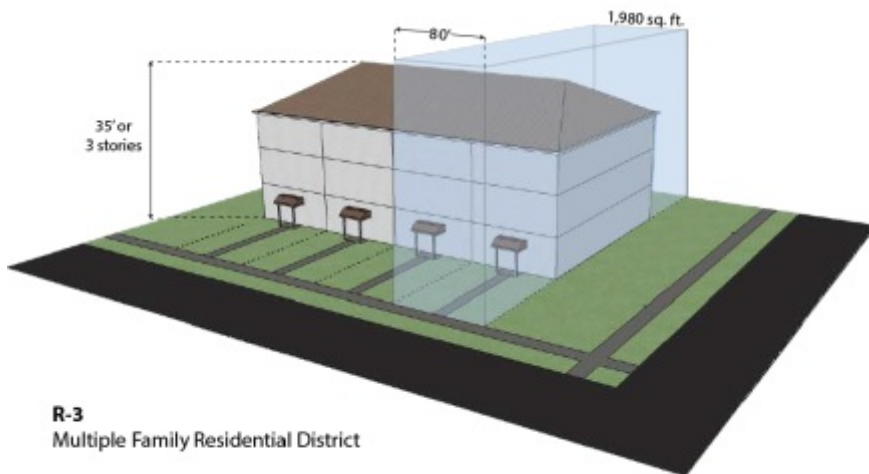
Residential Lot Requirements



R-1
Single Family Residential District



R-2
Mixed Residential District



R-3
Multiple Family Residential District

FIGURE 20. Entrance Orientation



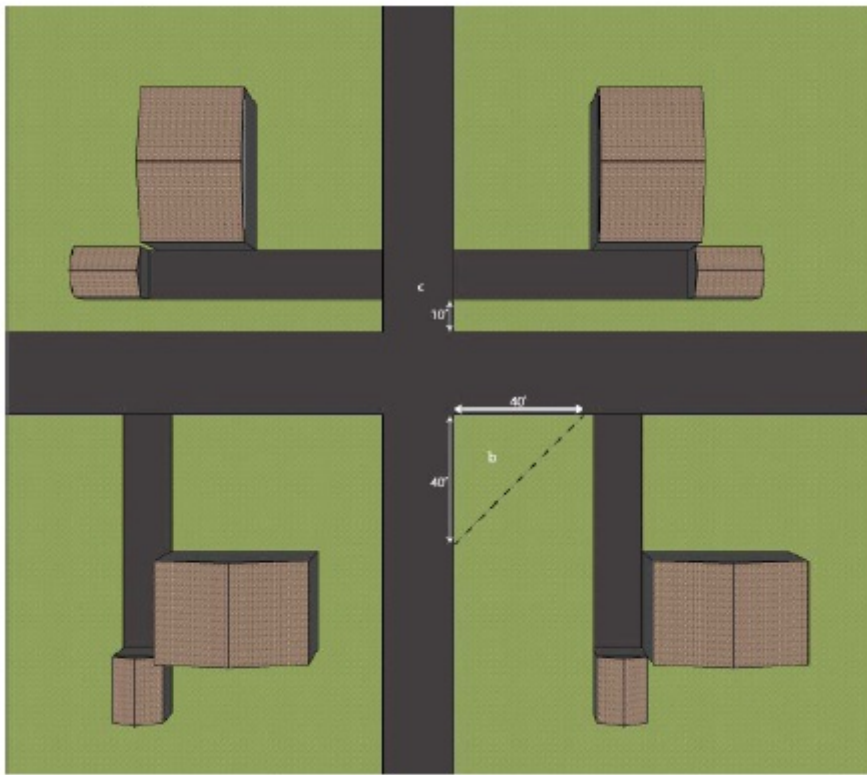
FIGURE 21. Variation In Roof Lines



FIGURE 22. Articulated Interval



FIGURE 23. Landscape Screening/Traffic Visibility



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CHAPTER 155: RENTAL HOUSING

Section

- 155.01 License
- 155.02 Re-inspection
- 155.03 Revocation, denial or non-renewal of license
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§ 155.01 LICENSE.

(A) *License required; exception.* It is unlawful to own or 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 two or more units, and has a common owner and a common property identification number, the owner shall obtain a single license for the rental dwelling. A license is not required under this chapter if the owner is renting to a relative. "Relative" means a parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece, by blood or marriage.

(B) *License application.* The owner of a rental dwelling must submit an application to the Fire Chief for a license on forms and in the format provided by the city. The owner must give notice, in writing, to the city within five business days of any changes to the information contained in the license application. The application must include:

- (1) A description of the premises;
- (2) The name, address and telephone numbers of the owner(s) and agent; and
- (3) The name, address and telephone number of the refuse removal person or company which supplies refuse removal services for the building.

(C) *Agent.* No license shall be issued or renewed unless the owner designates in writing to the Fire Chief an agent who resides in any of the following Minnesota counties: Hennepin, Ramsey, Anoka, Carver, Dakota, Scott or Washington; or Wisconsin counties: Polk, St. Croix and Pierce. Said agent shall be held responsible for maintenance and upkeep of the property and must be empowered to receive service of notice of violations of the provisions of the City Code, to receive orders and institute remedial action to effect such orders, and to accept all service of process pursuant to law. An owner must immediately notify the Fire Chief in writing of any change of agent.

(D) *Inspection.* No license may be issued or renewed unless the city determines, following an inspection conducted pursuant to this section, that the dwelling unit complies with all applicable state statutes and the city code.

(E) *Fee.* The owner of a rental property must pay a license and/or renewal fee in the amount set by ordinance by the City Council.

(F) *Term.* Rental licenses must be renewed annually.

(G) *Posting.* The rental license shall be posted in a common area in a conspicuous place on the premises and shall not be removed except by the Fire Chief or his designee.

(H) *Transfer.* Within 14 days prior to a change of ownership of a rental property, a new license application must be submitted by the proposed owner and to the Fire Chief.

(I) *Disclaimer.* Neither the city nor any employee thereof assumes liability for the findings of an inspection or the quality of any property inspected pursuant to this chapter or at the request of the owner. The issuance of a license shall not be construed to represent a warranty or guarantee by or on behalf of the city nor shall the issuance of a license be construed to imply or warrant that a unit or property is: safe or free of any dangers or hazards to the occupants or general public; free and clear of any violations of this chapter or any other laws, regulations or codes; or free and clear of any defects, including those related to any structural, fire protection, fire prevention, building utilities or any other features of the property.

(Ord. 746, passed 12-15-2015)

§ 155.02 RE-INSPECTION.

(A) *Re-inspection.* Re-inspection of a dwelling may be required by the city any time one or more of the following criteria is met:

- (1) Water, gas, or electric service to such dwelling has been discontinued as a result of nonpayment for more than seven continuous days;
- (2) The dwelling has, within the preceding three months, been the subject of a written petition filed with the office of the City Manager, which petition request that such dwelling be inspected and is signed by five or more persons having personal knowledge of the dwelling or property, stating one or more reasons why such dwelling should be inspected by the city; or
- (3) The Fire Chief has probable cause to believe that there exists within such dwelling one or more violations of safety codes which constitute a serious danger to the health, safety, and welfare of persons living in the dwelling, or which would make the dwelling

a dangerous structure or unfit for human habitation.

(4) The city makes a finding of disorderly use under § 155.04.

(B) *Re-inspection fee.* The owner of a rental property must pay a re-inspection fee in the amount set by ordinance by the City Council.

(Ord. 746, passed 12-15-2015)

§ 155.03 REVOCATION, DENIAL OR NON-RENEWAL OF LICENSE.

(A) *Revocation, denial or non-renewal.* The city may revoke, deny or decline to renew any license issued under this chapter for part or all of a rental dwelling upon any of the following grounds:

- (1) Failure of a dwelling to conform to applicable statutory and code requirements;
- (2) Failure by licensee to comply with any provision of this chapter, including § 155.04;
- (3) Commission of a felony related to the licensed activity by the licensee or agent.
- (4) The city will provide notice and a hearing prior to the revocation, denial or non-renewal of a license.

(B) *Notice.* At least five days before the hearing, the city shall provide written notice in person or by certified mail to an owner whose license is subject to revocation, denial or non-renewal. The notice shall specify:

- (1) The time and place of the hearing;
- (2) A statement of the charges;
- (3) The facts supporting the grounds for the charges; and
- (4) The applicant's right to be present and represented by counsel.

(C) *Hearing.*

(1) If the city makes a determination that it will be revoking, denying or not renewing a license, the City Council shall conduct a hearing on the matter.

The hearing shall be scheduled to occur at the next regular City Council meeting, subject to the notice time requirement set forth above.

(2) 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 shall have the opportunity to address the City Council at the hearing.

(3) After the hearing is concluded, the City Council shall make its decision on whether to revoke, deny or not renew the license. The City Council shall provide written findings of fact, citations to any ordinances or regulations that have been violated, and a statement of action taken.

(D) *No occupancy.* If a license is revoked, denied or not renewed by the City Council, it shall be unlawful for the owner to thereafter permit the occupancy of the rental dwelling. A notice of the action shall be posted by the Fire Chief on the rental dwelling in order to prevent any further occupancy. No person shall reside in, occupy or cause to be occupied that rental dwelling until a license is obtained by the owner.

(E) *Appeal.* An owner may appeal the decision of the City Council as allowed under state law.

(Ord. 746, passed 12-15-2015)

§ 155.04 DISORDERLY RENTAL DWELLING.

(A) *Disorderly use.* It shall be the responsibility of the owner to see that persons occupying the rental dwelling conduct themselves in such a manner as not to cause the premises to be disorderly. For purposes of this section, a rental dwelling is disorderly at which any of the following activities occur:

- (1) Violation of M.S. §§ 609.755 through 609.76 as may be amended from time to time, relating to gambling;
- (2) Violation of laws relating to prostitution or acts relating to prostitution as defined in M.S. § 609.321;
- (3) Violation of M.S. §§ 152.01 through 152.027 as may be amended from time to time, relating to the unlawful sale or possession of controlled substances;
- (4) Violation of M.S. § 340A.503 as may be amended from time to time, relating to the underage possession and consumption of alcoholic beverages;
- (5) Violation of M.S. § 609.33 as may be amended from time to time, which prohibits owning, leasing, operating, managing, maintaining or conducting a disorderly house, or inviting or attempting to invite others to visit or remain in a disorderly house;
- (6) Violation of M.S. §§ 97B.021, 97B.045, 609.66 through 609.67, 624.712 through 624.716, 624.719, 624.731 through 624.732, as may be amended from time to time, relating to the unlawful possession, transportation, sale or use of weapons;
- (7) Violation of City Code § 130.01 or M.S. § 609.72, as may be amended from time to time, relating to disorderly conduct;
- (8) Violation of City Code Title 4, Chapter 98, relating to nuisances.
- (9) Violation of City Code § 91.13, relating to recreational fires.
- (10) Violation of City Code Title 9, Chapter 95, relating to animals.

(B) *Procedure.*

(1) Upon determination by the Fire Chief that a licensed premises was used in a disorderly manner, as described in paragraph (A) of this section, the Fire Chief must give written notice to the licensee of the violation and direct the licensee to take steps to prevent further violations.

(2) If a second instance of disorderly use of the licensed premises occurs within 12 months of an incident for which a notice in division (B) of this section was given, the Fire Chief 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 Fire Chief within five 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 three months.

(3) If a third or more instance of disorderly use of the licensed premises occurs within 12 months after any two previous instances of disorderly use for which notices were given to the licensee pursuant to this section the city shall notify the license holder by mail of the violation and shall also require the license holder to immediately undertake the process necessary to remove the tenant from the property. If the license holder fails to comply with the requirements of this section within 14 days, this constitutes a property owner violation under § 155.03(A).

(C) *Finding of disorderly activities.* A determination that the licensed premises have been used in a 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.

(D) *Exceptions.*

(1) No adverse license action shall be imposed if the disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) of a tenant or within 30 days of notice given by the licensee to a tenant to vacate the premises and the disorderly use consisted of conduct by that tenant or guests of that tenant. This exception only applies where the eviction proceedings or vacation of the premises are diligently pursued by the licensee.

(2) An action to deny, revoke, suspend, or not renew a license under 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.

(F) *Other remedies.* The remedies 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. 746, passed 12-15-2015)

§ 155.05 LATE FEE.

A late fee shall be charged and collected whenever an owner applies for renewal of a license after the expiration date of the previously held license. A late fee will also be charged and collected whenever the owner or responsible agent pays late any other fee imposed under this chapter. The owner of a rental property must pay a late fee in the amount set by ordinance by the City Council. Late fees shall be in addition to any other fees or payment required.

(Ord. 746, passed 12-15-2015)

§ 155.99 PENALTY.

Notwithstanding the lack of a specific reference thereto, a violation of, or failure to comply with any section, provision or requirement in this chapter shall be a misdemeanor and shall be subject to the provisions of applicable city code or state statutes. This chapter is a part of the city health, safety, housing, building, fire prevention and housing maintenance codes, and a violation thereof shall be deemed to be a violation for purposes of state statutes allowing escrow of rent to remedy violations.

(Ord. 746, passed 12-15-2015)

CHAPTER 156: PROPERTY MAINTENANCE

Section

156.01 Property Maintenance Code adopted

156.02 Sections revised

§ 156.01 PROPERTY MAINTENANCE CODE ADOPTED.

That a certain document, three copies of which are on file in the office of the City Clerk, being marked and designated as the current edition of the *International Property Maintenance Code*, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the city, for regulating and governing the conditions and maintenance of all property, buildings and structures by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of the Property Maintenance Code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in § 156.02.

(Ord. 721, passed 3-19-2013)

§ 156.02 SECTIONS REVISED.

The following sections are hereby revised:

- (A) Section 101.1. Insert: City of North Saint Paul.
- (B) Section 103.5. Insert: See City fee schedule.
- (C) Section 112.4. Insert: [\$0] [\$0].
- (D) Section 302.4. Insert: Six (6) Inches In Height.
- (E) Section 304.14. Insert: April 1 - October 31.
- (F) Section 602.3. Insert: September 1 - May 31.

(G) Section 602.4. Insert: September 1 - May 31.

(Ord. 721, passed 3-19-2013)

PARALLEL REFERENCES

References to Minnesota Statutes

References to Minnesota Rules

References to Minnesota Regulations

References to 1989 Code of Ordinances

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REFERENCES TO MINNESOTA STATUTES

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Editor's note:

2003 Zoning Code (Ch. 154) replaced by Ord. 739, passed 8-18-2015.

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