

CHAPTER 1. GENERAL PROVISIONS

ARTICLE I: In General

Section 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Anoka, Minnesota City Code" and may be so cited. Such ordinances may also be cited as the "Code."

Section 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Charter. The term "charter" or "city charter" means the charter of the City of Anoka, as amended.

City. The term "city" means the City of Anoka, Minnesota.

City Council, Council. The term "city council" or "council" means the City Council of the City of Anoka, Minnesota.

Code. The term "Code" means the Anoka, Minnesota City Code, as designated in section 1-1.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, except that when appropriate from the context, the terms "and" and "or" are interchangeable:

- (1) "And" indicates that all the connected terms, conditions, provisions or events apply.
- (2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) "Either . . . or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means Anoka County, Minnesota.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision that authorizes such officer or employee to act or make a decision through subordinates.

Following. The term "following" means next after.

Gender. Words of one gender include all other genders.

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Includes. The term "includes" does not limit a term to a specified example.

Joint authority. Words giving a joint authority to three or more persons give such authority to a majority of such persons.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

Minn. Stats. The abbreviation "Minn. Stats." or "MS" mean the Minnesota Statutes, as amended.

Month. The term "month" means a calendar month.

Must. The term "must" shall be construed as being mandatory.

Number. Words in the singular include the plural. Words in the plural include the singular.

Oath. A solemn affirmation is the equivalent to an oath and a person shall be deemed to have sworn if such person makes such an affirmation.

Officers, departments, etc. References to officers, departments, board, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

Official time. References to a specific time of day are to Central Standard Time or central daylight time, as appropriate.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.

Person. The term "person" means any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, any limited liability company, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity. Whenever the term "person" is used in any provision prescribing and imposing a penalty, the term as applied to a corporation, partnership or limited liability company means the officers or partners thereof, as the case may be.

Personal property. The term "personal property" means any property other than real property.

Preceding. The term "preceding" means next before.

Premises. The term "premises," as applied to real property, includes land and structures.

Property. The term "property" includes real property, personal property and mixed property.

Real property, real estate, land, lands. The terms "real property," "real estate," and "land" include lands, buildings, tenements and hereditaments and all rights and interests therein except chattel interests.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means that portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians. If there is no public area between the lateral lines of the roadway and the

abutting property line, then the area immediately abutting the street line shall be construed as the sidewalk.

Signature or subscription by mark. The term "signature" or "subscription" includes a mark when the signer or subscriber cannot write. In such situations, such person's name shall be written near the mark by a witness who writes his own name near such person's name.

State. The term "state" means the State of Minnesota.

Street. The term "street" means any alley, avenue, boulevard, highway, road, lane, viaduct, bridge and the approach thereto, and any other public thoroughfare in the city. "Street" also means the entire width thereof between abutting property lines. "Street" includes a sidewalk or footpath.

Tenant, occupant. The term "tenant" or "occupant," as applied to a building or land, includes:

- (1) Any person holding either alone or with others a written or oral lease of such building or land.
- (2) Any person who either alone or with others occupies such building or land.

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Writing. The term "writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is authorized or required, it shall be made in writing in the English language.

Year. The term, "year" means a calendar year.

Section 1-3. Computation of time.

- (a) When the term "successive weeks" is used in any ordinance providing for the publication of notices, the word "weeks" shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which the publication is made.
- (b) When in any ordinance the lapse of a number of months before or after a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in which the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.
- (c) Where the performance or doing of any act, duty, matter, payment or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law or ordinance, the time, except as otherwise provided in subsections (a) and (b) of this section, shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on a Saturday, Sunday or legal holiday, that day shall be omitted from the computation.

- (d) When an application, payment, return, claim, statement other document is to be delivered to or filed with a department, agency or instrumentality of the city on or before a prescribed date and the prescribed date falls on a Saturday, Sunday or legal holiday, it is timely delivered or filed if it is delivered or filed on the next succeeding day which is not a Saturday, Sunday or legal holiday.

Section 1-4. Catchlines of sections; history notes references.

- (a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.
- (b) The history or source notes appearing in parenthesis after sections in this Code have no legal effect and only indicate legislative history. Editor's notes, cross references and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the code and have no legal effect.
- (c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

Section 1-5. Effect of repeal of ordinances.

- (a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any repealed ordinance.
- (b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

Section 1-6. Amendments to Code effect of new ordinances; amendatory language.

- (a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.
- (b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) of the Anoka, Minnesota City Code is hereby amended to read as follows: . . . "
- (c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) of the Anoka, Minnesota City Code is hereby created to read as follows: . . . "
- (d) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

Section 1-7. Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and

general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be included from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts or ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:
 - (1) Arrange the material into appropriate organizational units.
 - (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the code.
 - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
 - (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
 - (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Section 1-8. General penalty; continuing violations.

- (a) In this section "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation, a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation, a misdemeanor or a petty misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (4) Counseling, aiding or abetting a violation of this Code as defined above.

- (b) In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) Petty Misdemeanors. Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code that is declared to be a petty offense or petty misdemeanor, shall be subject to the penalties set forth in MS 609.02, as amended. Any subsequent violations originally declared as a petty offense or petty misdemeanor, may be declared as a misdemeanor.
- (d) General Misdemeanors. In any other case, unless another penalty is expressly provided in this Code, any person violating any provision of this Code, or any rule or regulation adopted in pursuance thereof, or any other provisions of any Code adopted in this Code by reference, including any provision declaring an act or omission to be a misdemeanor, shall, upon conviction, be subject to the penalties set forth in MS 609.02, as amended.
- (e) Separate Violations. Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. Except as otherwise provided by law or ordinance, as to violations that are not continuous with respect to time, each act is a separate offense.
- (f) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (g) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

Section 1-9. Severability.

- (a) The sections, subsections, paragraphs, sentences, clauses and phrases of this Code and all provisions adopted by reference in this Code are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Code or of any provision adopted by reference in this Code, for the council declares that it is its intent that it would have enacted this Code and all provisions adopted by reference in this Code without such invalid or unconstitutional provisions. If any provision of this Code is declared to be inapplicable to specific property by a valid judgment of a court of competent jurisdiction, such judgment shall not restrict the applicability of such provision to other property.

Section 1-10. Provisions deemed continuation of existing ordinances.

- (a) The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Section 1-11. Code does not affect prior offenses or rights.

- (a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

- (b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

Section 1-12. Certain ordinances not affected by Code.

- (a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance listed below. Such ordinances continue in full force and effect to the same extent as if published at length in this Code.
- (b) Amending the city charter.
- (c) Annexing property into the city.
- (d) De-annexing property or excluding property from the city.
- (e) Providing for salaries or other employee benefits not codified in this Code.
- (f) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (g) Authorizing or approving any contract, deed, or agreement.
- (h) Making or approving any appropriation or budget.
- (i) Granting any right or franchise.
- (j) Vacating any easement or parkland.
- (k) Adopting or amending the comprehensive plan.
- (l) Or imposing any special assessment.
- (m) Dedicating, establishing naming, locating, relocating, opening, paving, widening, repairing or vacating any street.
- (n) Establishing the grade or any street or sidewalk.
- (o) Dedicating, accepting or vacating any plat or subdivision.
- (p) Levying, imposing or otherwise relating to taxes not codified in this Code.
- (q) Establishing traffic regulations for specific locations not codified in this Code.
- (r) Rezoning specific property.
- (s) That is temporary, although general in effect.
- (t) That is special, although permanent in effect.
- (u) The purpose of which has been accomplished.

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Article II. Administrative Citations and Penalties.

Section 1-20. Purpose.

Based on past experience, the City Council finds that there is a need for alternative methods of enforcing the City Code. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the City and the accused. The delay inherent in that system does not ensure prompt resolution, citizens resent being labeled as criminals for violations of administrative regulations, and the higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for City Code violations.

Section 1-21. Definitions.

- (a) Code Compliance Officer. Any employee of the City of Anoka as authorized in Chapter 2, Article III, Section 2-61 of the City Code; the Property Maintenance Coordinator; or such other individual as may be designated by the City Manager to carry out the duties of a Code Enforcement Officer.
- (b) Code Offense. A violation of any section, subdivision, paragraph or provision of the Anoka City Code, subject to a civil penalty as determined according to a schedule adopted from time to time by the Anoka City Council and payable directly to the City. Each day the violation exists constitutes a separate Code Offense.
- (c) Owner. An individual, association, syndicate, partnership, corporation, limited liability company, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.
- (d) Person. A natural person of either sex, a firm, partnership, corporation, limited liability company, any other association of people, and includes the manager or agent of that person or organization.

Section 1-22. Administrative Citation Procedure.

- (a) Administrative Notice. A Code Compliance Officer may issue, either in person or by United States first class mail, an Administrative Notice to a person suspected or known to have committed a Code Offense and/or to be the owner of property upon which a Code Offense is being committed.
 - (1) The Administrative Notice shall identify the Code Offense, the location upon which the Code Offense occurred or is occurring, and the corrective action necessary to become Code compliant.
 - (2) The Administrative Notice may also set forth a prescribed period of time within which the alleged violator and/or property owner has to correct or abate the Code Offense.

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- (3) If the alleged violator and/or owner of property upon which a Code Offense is being committed is unable to correct or abate the Code Offense within the prescribed time, that person may request, in writing, an extension of no more than thirty (30) additional days from the Code Compliance Officer.
 - (4) Any extension granted by the Code Compliance Officer shall be in writing and shall specifically state the date of expiration.
 - (5) If the Code Offense is not corrected or abated, as outlined in the Administrative Notice, within the prescribed time or any extension thereto, the Code Compliance Officer may issue a citation, as provided below.
- (b) Citation. A Code Compliance Officer is authorized to issue a citation upon the belief that a Code Offense has occurred, or is currently being committed, whether or not an Administrative Notice has first been issued in regard to the Code Offense.
- (1) The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the violation has occurred, either by personal service or by United States first class mail.
 - (2) Said citation shall state the nature of the Code Offense, the time and date said Code Offense occurred, the civil penalty applicable to that Code Offense as set forth in a schedule of civil penalties as adopted by the City Council from time to time, the manner for paying the civil penalty or requesting a hearing before an Administrative Hearing Officer to contest the citation, and the date by which said Code Offense must be corrected.
- (c) Responding to a Citation/Payment. Once a citation is issued, the alleged violator and/or the owner of the property upon which the violation has occurred shall, within fifteen (15) days of the time of issuance of the citation, either pay the civil penalty set forth in the citation and bring the property into compliance, request a hearing in writing according to the procedure set forth in this Section, or request to be charged with a criminal violation through the District Court System.
- (1) The civil penalty may be paid in person at City Hall or by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days.
 - (2) Payment of the civil penalty shall be deemed to be an admission of the Code Offense.
 - (3) In addition to payment of a civil penalty, the alleged violator and/or owner the property must request verification of the property's compliance with the City Code from the Code Compliance Officer before the property may be deemed code compliant.
 - (4) Failure to respond within the required time may result in the City issuing a criminal charge against the alleged violator in District Court.

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Section 1-23. Administrative Hearing.

- (a) Requesting a Hearing. Any person contesting a citation issued pursuant to this Article may, within fifteen (15) days of the time of issuance of the citation, request a hearing before a Hearing Officer.
 - (1) Any request for a hearing before a Hearing Officer shall be made in writing on a form provided by the City for such a request and either delivered personally to the City at City Hall or mailed to the City by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days.
 - (2) The hearing shall be held at City Hall within thirty (30) days of receipt of a timely submitted request for a hearing.
 - (3) Failure to attend the hearing constitutes a waiver of the violator's rights to an Administrative Hearing and an admission of the violation. A Hearing Officer may waive this result upon good cause shown. A determination of good cause shall be made by the Hearing Officer, but specifically does not include forgetfulness or intentional delay.
 - (4) A hearing request filing fee shall be paid simultaneously with the filing of the notice of appeal. The hearing request fee will be in the amount adopted by ordinance by the City Council.
 - (5) In cases where a violation was found to have occurred by the Hearing Officer, in addition to any fine or other conditions imposed by the Hearing Officer, the offender shall be responsible for payment of the costs of the hearing, including the Hearing Officer's fees.
- (b) Hearing Officer.
 - (1) The City Council will periodically approve a list of lawyers from which the City Manager will randomly select a Hearing Officer to hear and determine a matter for which a hearing is requested.
 - (2) The accused will have the right to request, in writing and no later than five (5) days before the date of the hearing, that the assigned Hearing Officer be removed from the case without cause. Any subsequent request for the same case must be directed to the assigned Hearing Officer who will decide whether he or she can fairly and objectively review the case.
 - (3) The Code Compliance Officer may remove a Hearing Officer only by requesting that the assigned Hearing Officer find that he or she cannot fairly and objectively review the case. If such a finding is made, the Hearing Officer shall remove himself or herself from the case, and the City Manager will assign another Hearing Officer.

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- (4) The Hearing Officer must not be a City employee.
 - (5) The City Manager must establish a procedure for evaluating the competency of the Hearing Officers, including comments from alleged violators and City staff. These reports must be provided to the City Council.
- (c) Issuance of a Subpoena.
- (1) Upon the Hearing Officer's own initiative, or upon written request of an interested party demonstrating the need and submitted to the City clerk at least fifteen (15) working days before the scheduled hearing, the Hearing Officer may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents that are material to the matter being heard.
 - (2) The party requesting the subpoena is responsible for serving the subpoena in the manner provided for civil actions and for paying the fees and expenses of the witness served with the subpoena.
 - (3) A person served with a subpoena may file an objection with the Hearing Officer promptly, but no later than the time specified in the subpoena for compliance.
 - (4) The Hearing Officer may cancel or modify the subpoena if, in his or her opinion, it is deemed to be unreasonable or oppressive.
 - (5) Alternatively, the party requesting the subpoena may seek an order from District Court compelling the witness' attendance at the hearing.
- (d) The hearing.
- (1) Notice of the hearing must be served in person or by mail on the alleged violator and/or owner of the property at least ten (10) days prior to the hearing date, unless a shorter time period is accepted by all parties.
 - (2) At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidentiary procedure will not apply.
 - (3) The Hearing Officer must tape record the hearing and receive testimony and exhibits.
 - (4) The Hearing Officer must receive and give weight to the evidence presented, including reliable hearsay evidence that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.
- (e) Authority of Hearing Officer.
- (1) The Hearing Officer has the authority to determine whether a violation has occurred, or is occurring, and, upon his or her findings, may:
 - A. dismiss the citation;
 - B. impose the scheduled fine amount;

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- C. reduce, stay or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions;
 - D. order that the City be allowed to remedy the violation and assess the costs associated therewith against the property; or
 - E. impose any combination of the foregoing provisions that the Hearing Officer deems to be reasonable.
- (2) When imposing a penalty, the Hearing Officer may consider any or all of the following factors:
- A. the duration of the violation;
 - B. the frequency of reoccurrence of the violation;
 - C. the seriousness of the violation;
 - D. the history of the violation;
 - E. the violator's conduct after issuance of the notice of hearing;
 - F. the good faith effort by the violator to comply;
 - G. the economic impact of the penalty on the violator;
 - H. the impact of the violation upon the community; and
 - I. any other factors the Hearing Officer deems appropriate to achieve a just result.
- (3) The Hearing Officer may exercise discretion to impose a fine for more than one day of a continuing violation, but only upon a finding that:
- A. the violation causes a serious threat of harm to the public health, safety and welfare; or that
 - B. the accused intentionally and unreasonably refused to comply with the Code requirement.
- f. Hearing Officer's decision.
- (1) The Hearing Officer's decision must be in writing.
 - (2) The decision of the Hearing Officer is final without any further right of administrative appeal.
 - (3) The Hearing Officer's decision relative to any of the matters set forth in Section 1-24 below may be appealed to the City Council by submitting a request in writing to the City clerk within ten (10) days after issuance of the Hearing Officer's decision.

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- (4) Failure of the accused to attend the hearing constitutes a waiver of the accused's rights to an Administrative Hearing and an admission of the violation. A Hearing Officer may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the Administrative Citation or Notice of the hearing. "Good cause" does not include: forgetfulness or intentional delay.

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Section 1-24. Administrative Review.

- (a) **Appeal of Hearing Officer's Decision.** The Hearing Officer's decision in any of the following matters may be appealed by a party to the City Council for administrative review:
 - (1) An alleged failure to obtain a permit, license, or other approval from the City Council as required by City Ordinance;
 - (2) An alleged violation of a permit, license, or other approval, or the conditions attached to the permit, license, or approval, that was granted by the City Council; and
 - (3) An alleged violation of regulations governing a person or entity who has received a license granted by the City Council.
- (b) **Appeal to the City Council.** To appeal to the City Council, the party seeking the appeal must submit a request in writing to the City clerk within ten (10) days after the Hearing Officer's decision. The appeal must be accompanied by a fee as established by the City Council.
- (c) **Hearing by the City Council.** The appeal will be heard by the City Council after notice served in person or by registered mail at least ten (10) days in advance of the hearing. The parties to the hearing will have an opportunity to present oral or written arguments regarding the Hearing Officer's decision.
- (d) **City Council Decision.** The City Council must consider the record, the Hearing Officer's decision, and any additional arguments before making a determination. The City Council is not bound by the Hearing Officer's decision, but may adopt all or part of the Hearing Officer's decision. The City Council's decision must be in writing.
- (e) **Finding of Violation and Imposition of Penalty.** If the City Council makes a finding of a violation, it may impose a civil penalty not exceeding \$1000.00 per day per violation, and may consider any or all of the factors contained in 1-23(e)(2). The City Council may also reduce, stay or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions.
- (f) **Additional Penalties.** In addition to imposing a civil penalty, the City Council may suspend or revoke a city-issued license, permit, or other approval associated with the violation, if the procedure for suspension or revocation, as found elsewhere in the City Code, has been followed. Any hearing required in a suspension or revocation process located elsewhere in the City Code will be satisfied by the hearing before the Hearing Officer, with the right of appeal to the City Council.

Section 1-25. Judicial Review. An aggrieved party may obtain judicial review of the decision of the Hearing Officer or the City Council by proceeding under a writ of certiorari in District Court.

Section 1-26. Recovery of Civil Penalties.

- (a) If a civil penalty is not paid within the time specified, it will constitute:

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- (1) A lien on the real property upon which the violation occurred if the property or improvements on the property were the subject of the violation and the property owner was found responsible for the violation; or
 - (2) A personal obligation of the violator in all other situations.
- (b) A lien may be assessed against the property and collected in the same manner as taxes.
 - (c) A personal obligation may be collected by appropriate legal means.
 - (d) A late payment fee of ten (10) percent of the total fine imposed, or any part thereof that remains unpaid, may be assessed for each thirty (30) day period that the total fine amount remains unpaid after the due date.
 - (e) Failure to pay a fine is grounds for suspending or revoking a license related to the violation and/or the property upon which the violation occurred.

Section 1-27. Criminal Penalties.

- (a) The following are misdemeanors, punishable in accordance with state law:
 - (1) Failure to pay a fine imposed by a Hearing Officer within thirty (30) days after it was imposed, or such other time as may be established by the Hearing Officer, unless the matter is appealed pursuant to Section 1-24, or judicial review is sought pursuant to Section 1-25.
 - (2) Failure to pay a fine imposed by the City Council within thirty (30) days after it was imposed, or such other time as may be established by the City Council.
- (b) If the final adjudication in the Administrative Hearing is a finding of no violation, the City may not pursue a criminal violation in District Court based on the same set of facts. This does not preclude the City from pursuing a criminal conviction for a violation of the same provision based on a different set of facts or upon a finding of a violation. A different date of the same violation will constitute a different set of facts.

CITY OF ANOKA

CITY CODE

CHAPTER 1: ARTICLE III.

CHAPTER 1. GENERAL PROVISIONS

Article III. Opting-Out of the Requirements of Minn. Statutes Section 462.3593.

Section 1-1. Opt-out of Minn. Statutes, Section 462.3593.

Pursuant to authority granted by Minn. Statutes, Section 462.3593, subdivision 9, the City of Anoka opts-out of the requirements of Minn. Stat. § 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

CHAPTER 2. ADMINISTRATION

ARTICLE III: Officers and Employees

Section 2-61. Issuance of citations.

- (a) Except as otherwise provided by law, only a peace officer and/or part-time peace officer may:
 - (1) Issue a citation requiring the person receiving the citation to appear in court; or
 - (2) Take a person into custody as permitted by Minn. Stats. § 629.34.
- (b) The following City officials may issue citations in lieu of arrest or continued detention for violations of this Code:
 - (1) Peace officers and part-time peace officers;
 - (2) Community service officers;
 - (3) Park rangers;
 - (4) Reserve officers;
 - (5) The Property Maintenance Coordinator or any employee designated by the City Manager to carry out the duties of a Code Enforcement Officer for Chapters 20, 38, 48, 54, 70 and 74..
 - (6) The Zoning Administrator or any employee designated by the City Manager, but only for violations of Chapters 20, 38, 54 and 74 of this Code;
 - (7) The Fire Marshal only for violations of Chapter 34 of this Code; and
 - (8) The Building Official, but only for violations of Chapter 18 of this Code or for violations of the State Building Code.

Section 2-62 thru 2-90. Reserved.

CHAPTER 2. ADMINISTRATION

ARTICLE IV: Administrative Code and Departments

Section 2-91. Administrative Code.

- (a) There is hereby established for the City an administrative code for the purpose of dividing the administrative service of the City into departments, and for the purpose of broadly defining the functions of each such department as outlined in the personnel policy manual, administrative procedures manual, and position classification and compensation manual adopted by the City Council. These manuals shall comprise the administrative code for the City and may be amended from time to time by resolution of the City Council.
- (b) With the exception of the City Attorney, all department directors are appointed by, and are responsible to, the City Manager for duties and functions outlined in the administrative code (position classification and compensation manual). The overall operation of the City shall be divided into departments and divisions with the department directors and division heads thereof. The following departments, divisions, and positions are hereby created:
- (1) *Department of Administration.* The Department of Administration shall be under the supervision and control of the City Manager and shall be responsible for the administration, supervision, and related administrative functions of the following divisions:
- a. City Clerk;
 - b. Licensing;
 - c. General Municipal Administrative Services.
- (2) *Department of Finance.* The Department of Finance shall be under the supervision and control of the Finance Director and shall be responsible for the administration, supervision, and related financing functions of the following divisions:
- a. Finance;
 - b. Utility billing;
 - c. Data processing;
 - d. Purchasing;
 - e. City assessor's office;
 - f. Special assessments;
 - g. Payroll.

- (3) *Department of Public Works.* The Department of Public Works shall be under the supervision and control of the Public Works Director and shall be responsible for the administration, supervision and related public works functions of the following divisions:
- a. Engineering;
 - b. Building maintenance;
 - c. Sanitary and storm sewers;
 - d. Streets and alleys;
 - e. Water.
- (4) *Police Department.* The Police Department shall be under the supervision and control of the Police Chief and shall be responsible for the administration, supervision and related police activities of the following divisions:
- a. Law enforcement division;
 - b. Civil defense division.
- (5) *Department of Human Resources.* The Department of Human Resources shall be under the supervision and control of the Human Resources Director and shall be responsible for the administration, supervision and related personnel activities of the following divisions:
- a. Labor relations;
 - b. Employee relations;
 - c. Employee safety;
- (6) *Department of Community Development.* The Department of Community Development shall be under the supervision and control of the Community Development Director and shall be responsible for the administration, supervision and related community development activities of the following divisions:
- a. Economic development;
 - b. Housing and redevelopment;
 - c. **Recycling.**
 - d. **Rental Assistance.**
- (7) *Department of Planning.* The Department of Planning shall be under the supervision and control of the Planning Director and shall be responsible for the administration, supervision and related activities of the following divisions:
- a. Planning and Zoning;
 - b. Building Permits and Property Maintenance.
 - c. Code Enforcement.

d. Heritage Preservation.

- (8) *Department of Electric Utility.* The Department of Electric Utility shall be under the supervision and control of the Electric Utility Director and shall be responsible for the administration, supervision, and related municipal utility activities of the following division: Electric utility.
- (9) *Department of Golf Course & Banquet Center.* The Department of Golf Course and Banquet Center shall be under the supervision and control of the Golf Course Manager, and shall be responsible for the administration, and supervision of related golf course and banquet center activities.
- (10) *Department of Liquor Operations.* The Department of Liquor Operations shall be under the supervision and control of the Liquor Store Manager, and shall be responsible for the administration, and supervision of the City's Liquor Store(s).
- (11) *Department of Parks and Recreation.* The Department of Parks and Recreation shall be under the supervision and control of the Director of Parks, Recreation, and Maintenance, and shall be responsible for the administration, supervision and related parks and recreation activities of the following divisions:
 - a. Organized Recreation;
 - b. Park development, construction and maintenance;
 - c. Cemeteries;
 - d. Shade trees, Beautification;
 - e. Aquatic Center.

Section 2-92 thru 2-120.

Reserved.

CHAPTER 2. ADMINISTRATION

ARTICLE V: Finance

Section 2-121. Self-Insurance Fund.

- (a) A self-insurance revolving fund is hereby established for the City.
- (b) The City establishes the fund to provide self-insurance against liability of the City and its officers, employees, agents and servants under Minn. Stats. §§ 340A.603, 340A.801 and any other laws for damages resulting from its torts, including torts for which the City has immunity, and those torts of its officers, employees, agents and servants. The establishment of the fund, the allocation of funds to it or the expenditure of funds, or any other act in conjunction with the establishing or operation of the fund shall not waive any immunity granted to a political subdivision, nor shall it waive any statutory limitation on liability afforded a political subdivision.
- (c) The fund shall contain such sums as the Council shall from time to time appropriate.
- (d) The City Council may authorize expenditures or transfers from the fund established for any purpose it deems appropriate, including but not limited to the following purposes:
 - (1) Payment of losses;
 - (2) Costs of defense and investigation;
 - (3) Premiums and deductible amounts when commercial insurance is purchased for a risk;
 - (4) Debt service and debt service related expenses for bonds issued pursuant to Minn. Stats. § 471.982;
 - (5) Costs of loss control activities;
 - (6) Any other costs customarily borne by commercial insurers under conventional insurance policies.

Section 2-122 thru 2-150. Reserved.

CHAPTER 2. ADMINISTRATION

ARTICLE VI: Boards and Commissions

DIVISION 1: In General

Section 2-151. Appointment.

- (a) Members of boards, commissions and committees, including the Housing & Redevelopment Authority (HRA), shall be appointed by a majority vote of the City Council.

Section 2-152. Terms of Board, Commission and Committee Members.

- (a) All terms of members of boards, commissions and committees of the City of Anoka shall have an expiration date of December 31st with term lengths as prescribed in their respective enabling ordinance, resolution or bylaws.

Section 2-153 thru 2-165. Reserved.

CHAPTER 2. ADMINISTRATION

ARTICLE VI. Boards and Commissions

DIVISION 2. Economic Development Commission

Section 2-166. **Definitions.**

For the purpose of this Chapter, the following words and their derivations shall have the following meanings:

Commission shall mean the Economic Development Commission of the City of Anoka.

Chairman shall mean the Chairperson of the Economic Development Commission as provided for hereinunder.

Planning Commission means the Planning Commission of the City of Anoka.

Section 2-167. **Establishment of Commission.**

An Economic Development Commission is hereby established to be advisory to the City Council of the City of Anoka. Established in 1982.

Section 2-168. **Composition, Qualifications, Appointments, Terms Oath of Office, Attendance, Resignations, and Vacancies.**

- (a) *Composition.* The Commission shall consist of nine (9) members appointed by a majority vote of the City Council. A quorum shall be five (5) members. Members serve without compensation.
- (b) *Qualifications.* The qualifications of the members of the Commission shall be those who, in the judgment of the Council, are representative of the community and are qualified by training and experience and interest useful for the fulfillment of the Commission's responsibility in economic development. At least five (5) members shall be residents of the City of Anoka.
- (c) *Appointments.* Appointments to the Commission shall be as established in the current policy, as may be amended from time to time; Policy Establishing Procedures for Appointments to Boards and Commissions.
- (d) *Terms.* Appointees shall hold office until their successors are appointed and have qualified.
 - (1) *Full Terms.* Member shall be appointed to serve a three-year (3 yr) term, commencing on January 1st and expiring at midnight on December 31st of the third year.
 - (2) *Partial Terms.* Members appointed to fill a vacancy/partial term, shall begin serving upon being appointed and Oath of Office, and shall serve the remaining balance of the term of their predecessor.
- (e) *Oath of Office.* Every appointed member shall, before entering upon the discharge of his duties, for each term appointed, take an oath that he will faithfully discharge the duties of his office.

- (f) *Attendance.* Members are expected to be interested in Economic Development matters as related to the general welfare of the community and are expected to prepare for and attend meetings of the Commission when held.
- (g) *Resignations.* Resignations from the Commission should be submitted to the City in written form for acceptance by the City Council. After City Council acceptance, resignations will be acted upon as established in the current policy, as may be amended from time to time; Policy Establishing Procedures for Appointments to Boards and Commissions.
- (h) *Vacancies.* Vacancies in the Commission will be acted upon as established in the current policy, as may be amended from time to time; Policy Establishing Procedures for Appointments to Boards and Commissions.

Section 2-169.

Removal of Members.

A member may be removed from the Commission, when it is determined by a majority of the City Council that removal of an individual would be in the best interest of the City.

Section 2-170.

Officers, Meetings, Reports and Expenditures.

- (a) *Officers.* The Commission shall elect a chairman from among its appointed members and may create and fill such other offices as it may determine.
- (b) *Meetings.*
 - (1) *Regular Meetings.* The Commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which shall be of public record.
 - (2) *Special Meetings.* The Chairman or any three (3) members of the Commission shall have the authority to call special meetings of the Commission. Written notices of special meetings shall be given to all members at least twenty-four (24) hours prior to the time of the meeting unless the time and place for the special meeting is set at a regular meeting.
- (c) *Reports.* Upon request by the City Council, the Commission shall render annually a full report of its work to the City Council.
- (d) *Expenditures.* Expenditures of the Commission shall be within amounts appropriated for the purpose by the City Council.

Section 2-171.

Staff.

The Commission shall receive the staff services of the Community Development Department and other personnel as recommended by the City Manager within the means provided for by appropriations made therefore by the City Council.

Section 2-172.

Duties.

The Commission is an agency of the City Council with responsibilities to:

- (a) Promote the development and use of planned residential, commercial, industrial, and business sites in the City.
- (b) Provide information to realtors and lending institutions serving residential, industrial, and commercial or business clients.
- (c) Cooperate with site selection committees and industrial, commercial or business leaders seeking a location for new expanded plant facilities.
- (d) Cooperate with civic betterment agencies interested in promoting the potential of the City's labor force and industrial, commercial, and business areas.
- (e) Cooperate and coordinate the layout, preparation and distribution of unsolicited industrial, commercial or business information from the City of Anoka to out-state prospects with the State of Minnesota Department of Employment and Economic Development (DEED).

Section 2-173.

Powers.

The Commission shall have the following powers:

- (a) To appoint subcommittees of a size and nature it may deem necessary and may enlist the aid of persons and/or organizations who are not members of the Commission. The Commission shall have no power to make contracts, levy taxes, borrow money or condemn property, but shall have the full power and responsibility to investigate the necessity and recommend the taking of these actions and any other actions related to the industrial and commercial development by the City Council and all other officers of the City responsible to formulate the terms of and the procedure for taking such action.
- (b) To confer with and advise the City Council and Planning Commission on all matters concerning the industrial, business, and commercial development of the City.
- (c) To publicize, with the consent of the City Council, the industrial and commercial advantages and opportunities of the City within the City provided by any appropriations made therefore by the City Council.
- (d) To collect data and information as to the type of industries and commerce best suited to the City.
- (e) To periodically survey the overall conditions of the City from the standpoint of determining whether the City has a community climate for economic development and to determine the general receptiveness of the City to particular types of industry, commerce or business.
- (f) To provide the City Council with information as to the general advantages and disadvantages of industrial and commercial development in the community.
- (g) To cooperate with all industries and businesses in the City in the solution of any community problems which they may have, and to encourage the expansion, development and management of such industries and businesses so as to promote the general welfare of the City.

- (h) To cooperate with all community groups and civic organizations within the City and to furnish them with such aid and advice as deemed appropriate.
- (i) To aid the City Council and Planning Commission in the proper zoning and orderly development of areas suitable for industrial and commercial development.
- (j) To develop, compile, coordinate and publicize, with available funds, information such as, but not limited to, the following:
 - (1) Existing industrial and commercial concerns within the City, their addresses, types of business, number of employees, and whether each serves local, regional or national markets.
 - (2) Available industrial and commercial sites including number of acres, approximate price, existing zoning, and proximity to major and minor arterial roads.
 - (3) Available buildings for industrial and commercial operations, including type of building, number of square feet, existing zoning, and proximity to major and minor arterial roads.
 - (4) Transportation facilities, including motor carriers, air transportation and highway facilities.
 - (5) Electric power available.
 - (6) Funds available for industrial and commercial use.
 - (7) Sewage disposal facilities.
 - (8) Water supply facilities.
 - (9) Community facilities such as fire, police and education.
 - (10) Recreational facilities.
 - (11) Wage of rates of unskilled, semi-skilled and white-collar workers.
 - (12) Availability of labor.
 - (13) General community attitude toward industrial and commercial expansion, development and attraction.
 - (14) Experience and programs of surrounding suburban communities in regard to industrial and commercial expansion, development and attraction.
- (k) To recommend to the City Council and Planning Commission policies and particular actions in regard to industrial and commercial expansion, development and attraction.

Sections 2-174 through 2-190. Reserved.

CHAPTER 2. ADMINISTRATION

ARTICLE VI: Boards and Commissions

DIVISION 3. Human Rights Commission

Section 2-191. Definitions.

For the purposes of this division, the following words and their derivations shall have the following meanings:

Commission shall mean the Human Rights Commission of the City of Anoka.

Chairman shall mean the Chairperson of the Human Rights Commission as provided for hereinunder.

Section 2-192. Re-Establishment and Purpose of Human Rights Commission.

It is declared that it is the public policy of the City of Anoka to fulfill its responsibilities as a partner of the State Department of Human Rights in securing for all citizens equal opportunity in housing, employment, public accommodations, public services and education, and to fully implement those goals set forth in Minnesota Statutes; Minnesota Human Rights Act, to educate and advise the community on human rights and social justice issues and to assist the Minnesota Department of Human Rights in implementing State laws against discrimination. Re-established in 2003.

Section 2-193. Composition, Qualifications, Appointments, Terms, Oath of Office, Attendance, Resignations and Vacancies.

- (a) *Composition.* Effective January 1, 2008, the Commission shall consist of five (5) members, with staggered terms, determined and appointed by a majority of the City Council. A quorum shall be three (3) members. Members serve without compensation.
- (b) *Qualifications.* The qualifications of the members of the Commission shall be those who, in the judgment of the Council, are sincere in the securing for all citizens, equal opportunity in housing, employment, public accommodations, public services and education and display an interest in Human Rights and Social Justice issues.
- (c) *Appointments.* Appointments to the Commission shall be as established in the current policy, as amended from time to time; Policy Establishing Procedures for Appointments to Boards and Commissions.
- (d) *Terms.* Appointees shall hold office until their successors are appointed and have qualified.
 - (1) *Full Terms.* Members shall be appointed to serve a three-year (3 yr) term, commencing on January 1st and expiring at midnight on December 31st of the third year.
 - (2) *Partial Terms.* Members appointed to fill a vacancy/partial term shall begin serving upon being appointed and take an Oath of Office, and shall serve the remaining balance of their predecessor's term.

- (e) *Oath of Office.* Every appointed member shall, before entering upon the discharge of his duties, for each term appointed, take an oath that he will faithfully discharge the duties of his office.
- (f) *Attendance.* Members are expected to be interested in Human Rights matters as related to the general welfare of the community and are expected to prepare for and attend meetings of the Commission when held.
- (g) *Resignations.* Resignations from the Commission should be submitted to the City in written form for acceptance by the City Council. After City Council acceptance, resignations will be acted upon as established in the current policy, as may be amended from time to time; Policy Establishing Procedures for Appointments to Boards and Commissions.
- (h) *Vacancies.* Vacancies in the Commission will be acted upon as established in the current policy, as may be amended from time to time; Policy Establishing Procedures for Appointments to Boards and Commissions.

Section 2-194.

Removal of Members.

A member may be removed from the Commission, when it is determined, by a majority of the City Council, that removal of an individual would be in the best interest of the City.

Section 2-195.

Officers, Meetings, Reports and Expenditures.

- (a) *Officers.* The Commission shall elect a chairman from among its appointed members and may create and fill such other offices as it may determine.
- (b) *Meetings.* The Commission shall meet on an as needed basis to respond to Human Rights occurrences or to prepare for or implement an event, program or project sponsored by the Human Rights Commission, or to attend to necessary business. Meeting necessity shall be determined by City staff after consulting with the Chairperson of the Human Rights Commission.
- (c) *Reports.* Upon request by the City Council, the Commission shall render annually a full report of its work to the City Council.
- (d) *Expenditures.* Expenditures of the Commission shall be within amounts appropriated for the purpose of the City Council.

Section 2-196.

Staff.

The Commission shall receive the staff services of the City Clerk's office and other personnel as recommended by the City Manager within the means provided for by appropriations made therefore by the City Council.

Section 2-197.

Duties.

The Commission is an agency of the City Council with responsibilities to:

- (a) Adopt Bylaws and Rules of Conduct for its affairs, including the election of commission officers, assumptions of duties, and definition of responsibilities of officers and commission members;

- (b) Engage in discussions and communicate with the State Department of Human Rights for the purpose of delineating cooperative regulatory and enforcement procedures;
- (c) Enlist the cooperation of agencies, organizations and individuals in the community in an active program directed to create equal opportunity and eliminate discrimination and inequalities;
- (d) Formulate a Human Rights Relations Program for the City to provide increased effectiveness and direction to the work of all individuals and agencies addressing themselves to planning, policy-making and educational programming in the area of civil and human rights;
- (e) Promote the acceptance of cultural diversity in Anoka;
- (f) Promote the elimination of hate, prejudice and discrimination against persons or groups based on race, gender, religion, or other status of the person or group;
- (g) Educate the community on issues of discrimination and cultural diversity;
- (h) Advise the City Council and City Administration on human rights issues;
- (i) Promote the goals and objectives of the Minnesota Human Rights Act.

Sections 2-199 through 2-215. Reserved.

CHAPTER 2. ADMINISTRATION

ARTICLE VI: Boards and Commissions

DIVISION 4: Heritage Preservation Commission

***State law reference** — Heritage Preservation Commissions, Minn. Stats. § 471.193

Section 2-216. Declaration of public policy and purpose.

- (a) The City Council hereby declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures, lands, districts and other objects having a special historical, cultural or aesthetic interest or value is a public necessity, and is required in the interest of public health, prosperity, safety and welfare of the people of the City. The purposes of this division is to:
- (1) Safeguard the heritage of the City by preserving sites and structures which reflect elements of the City's cultural, social, economic, political, engineering or architectural history;
 - (2) Protect and enhance the City attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry;
 - (3) Enhance the economic viability of heritage preservation landmarks and districts through the protection and promotion of their unique character;
 - (4) Enhance the visual and aesthetic character, diversity and interest of the City;
 - (5) Foster civic pride in the beauty and notable accomplishments of the past; and
 - (6) Promote the use and preservation of historic landmarks and districts for the educational and general welfare of the people of the City.

Section 2-217. Definitions.

For the purposes of this chapter, the following words and their derivations shall have the meanings as set forth in the subdivision which follow:

Commission means the Heritage Preservation Commission of the City of Anoka.

Chairman means the Chairman of the Heritage Preservation Commission as provided for hereinunder.

Section 2-218. Established.

Pursuant to Minn. Stats. 471.193, a Heritage Preservation Commission is hereby established to be advisory to the City Council of the City of Anoka. Established in 1998.

Section 2-219. Composition, Qualifications, Appointments, Terms, Oath of Office, Attendance, Resignations, and Vacancies.

- (a) *Composition.* The Commission shall consist of seven (7) members, appointed by a majority vote of the City Council. A quorum shall be four (4) members. Members serve without compensation.
- (b) *Qualifications.* The qualifications of the members of the Commission shall be residency of the City of Anoka, and those whom have demonstrated an interest in the historical, cultural or architectural development of the City and at least two of the members shall be preservation related professions, if available in the community. Per Minnesota Statute, the Commission must include a member from the Anoka County Historical Society, if available.
- (c) *Appointments.* Appointments to the Commission shall be as established in the current policy; as may be amended from time to time; Policy Establishing Procedures for Appointments to Boards and Commissions.
- (d) *Terms.* Appointees shall hold office until their successors are appointed and have qualified.
 - (1) *Full Terms.* Members shall be appointed to serve a three-year (3 yr) term, commencing on January 1st, and expiring at midnight on December 31st of the third year.
 - (2) *Partial Terms.* Members appointed to fill a vacancy/partial term, shall begin serving upon being appointed and Oath of Office, and shall serve the remaining balance of the term of their predecessor.
- (e) *Oath of Office.* Every appointed member shall, before entering upon the discharge of his duties, for each term appointed, take an oath that he will faithfully discharge the duties of his office.
- (f) *Attendance.* Members are expected to be interested in Heritage Preservation matters as related to the general welfare of the community and are expected to prepare for and attend meetings of the Commission when held.
- (g) *Resignations.* Resignations from the Commission should be submitted to the City in written form for acceptance by the City Council. After City Council acceptance, resignations will be acted upon as established in the current policy, as may be amended from time to time; Policy Establishing Procedures for Appointments to Boards and Commissions.
- (h) *Vacancies.* Vacancies in the Commission will be acted upon as established in the current policy, and may be amended from time to time; Policy Establishing Procedures for Appointments to Boards and Commissions.

Section 2-220.

Removal of Members.

A member may be removed from the Commission, when it is determined by a majority vote of the City Council that removal of an individual would be in the best interest of the City.

Section 2-221.

Officers, Meetings, Reports and Expenditures.

- (a) *Officers.* The Commission shall select from among its members such officers as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees with powers and duties equivalent to and not inconsistent with the powers and duties of the Commission. The commission shall make such rules and regulations as it may deem advisable and

necessary for the conduct of its affairs, for the purpose of carrying out the intent of this ordinance, which are not inconsistent with the laws of the City of Anoka and the State of Minnesota.

- (b) *Meetings.* The Commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which shall be of public record.
- (c) *Reports.*
 - (1) *Report to the City Council.* The Commission shall make an annual report to the City Council, containing a statement of its activities.
 - (2) *Communication with the State Historic Preservation Officer.* Pursuant to Minnesota Statutes, proposed site designations and design guidelines must be sent to the State Historic Preservation Officer at the Minnesota Historical Society. Annually, by October 31st, the Commission shall submit an annual report to the State Historic Preservation Officer, which summarizes the Commission's activities, including designations, reviews, and other activities during the previous twelve (12) months.

Section 2-222. Staff.

The City shall provide the Heritage Preservation Commission with staff to perform the duties prescribed under this division.

Section 2-223. Responsibilities.

The Heritage Preservation Commission shall have the responsibility of recommending to the City Council the adoption of ordinances designating areas, places, building structures, works of art or other objects having special historical, cultural or architectural interest for the community as heritage preservation landmarks or districts.

Section 2-224. Powers and duties.

- (a) The Heritage Preservation Commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this ordinance, which are not inconsistent with the laws of the City and the state. The heritage preservation commission shall make an annual report to the City Council, containing a statement of its activities.
- (b) The Heritage Preservation Commission shall conduct a continuing survey of all areas, places, buildings, structures or similar objects in the City which the commission, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as heritage preservation landmarks or districts.
- (c) The Heritage Preservation Commission shall work for the continuing education of the citizens of the City with respect to the historic and architectural heritage of the City. It shall keep current and public an official list of designated heritage preservation landmarks and districts.
- (d) Upon City Council approval, the Heritage Preservation Commission may retain the services, on a permanent or part-time basis, of technical experts and other persons as may be required to perform the commission's duties.

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- (e) The Heritage Preservation Commission shall have authority to solicit gifts and contributions to be made to the City and to assist in the preparation of applications for grant funds to be made to the City for the purpose of heritage preservation.
- (f) The Heritage Preservation Commission may recommend to the City Council, after review and comment by the City Planning Commission, that certain properties eligible for designation as heritage preservation landmarks or districts be acquired by gifts, by negotiation or other legal means.

Section 2-225--2-240.

Reserved.

CHAPTER 2. ADMINISTRATION

ARTICLE VI: Boards and Commissions

DIVISION 5: Park and Recreation Advisory Board

Section 2-241. Purpose created, composition, appointment, terms of office.

It is the purpose of the City Council to provide a high quality of life for the residents of the City by protecting the natural resources, safeguarding historic sites, and developing and maintaining park and recreational facilities for public enjoyment. For such purpose, there is hereby created and established in and for the City a board to be known and designated as the park and recreation advisory board.

Section 2-242. Members.

- (a) The Park and Recreation Advisory Board shall consist of nine members appointed by a majority of the City Council. Terms of office shall be three years, or until qualified successors have been appointed.
- (b) Vacancies on the Park and Recreation Advisory Board shall be reported to the City Council and filled by like appointment for the unexpired term. Members of the Park and Recreation Advisory Board shall receive no compensation for their services.

Section 2-243. Officers; bylaws.

The Park and Recreation Advisory Board shall organize itself and elect one of its members as chairman. The chairman of the Park and Recreation Advisory Board shall be responsible for calling and presiding at all meetings. The Park and Recreation Advisory Board shall also elect one of its members as vice-chairman, who shall perform the duties of the chairman in the absence of or incapacity of the chairman. The Park and Recreation Advisory Board shall also adopt its own bylaws for the conduct of its business.

Section 2-244. Powers and duties.

- (a) The Park and Recreation Advisory Board shall advise and assist the City Council in matters relating to the natural resources and historic facilities of the City including all park and recreation programs of the City or community schools, all playgrounds, playfields, parks, golf courses, swimming pools, and other recreation facilities. The Park and Recreation Advisory Board shall have no power to incur debt for which the City or any department thereof shall be liable and it shall have no power or authority to make any improvement, alterations, or changes in any of the parks or City facilities without the consent of the City Council. The Park and Recreation Advisory Board will perform the following functions:
 - (1) To develop and maintain a comprehensive plan for the City park system which categorizes park and recreation areas and facilities. To make recommendations for the development and maintenance of these areas and facilities based on such plan.
 - (2) To review proposed plot plans for new subdivisions and recommend to the City Council the park land dedication or cash in lieu of dedication which should be accepted and any proposed park and recreation areas or facilities which should be developed in the subdivision.

- (3) Propose to the City Council rules and regulations for the use of any parks or recreational facilities. Review all requests for the special use of such facilities and make recommendations to the City Council regarding such requests.
- (4) Consider proper names for park and recreation areas and facilities and make recommendations to the City Council for such titles.
- (5) To conduct studies and investigations as specifically directed or delegated by the City Council. To represent the City Council at appropriate meetings, hearings, and the other events when so directed.

Section 2-245 thru 2-260.

Reserved.

CHAPTER 6. ALCOHOLIC BEVERAGES

ARTICLE I. LIQUOR LICENSING IN GENERAL

Section 6-1. State Law Adopted.

The provision of Minnesota Statutes Chapter 340A, commonly known as the Liquor Act, are adopted and made part of this Chapter as if set out in full. Whenever there is an inconsistency between the provisions of Minnesota Statutes Chapter 340A and the provisions of this Chapter, the more restrictive provision shall govern, where allowed by State Law.

Section 6-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

Commissioner. Means the State Commissioner of Public Safety.

Bonafide Club. Means an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans organization, which: (i) has more than fifty (50) members; (ii) has owned or rented a building or space in a building for more than one (1) year that is suitable and adequate for the accommodation of its members; (iii) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting called for that purpose. No member, officer, agent, or employee shall receive any profit, directly or indirectly, from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

Brewer. Means a person who manufactures malt liquor for sale and who holds a Brewers License issued by the State of Minnesota.

Brewery Taproom. Means the premises on which malt liquor is produced by a Brewer and is sold for consumption on the premises and not sold to other bars, restaurants or wholesalers, unless permitted by State Law and issued a license by the Minnesota Department of Public Safety, Alcohol & Gambling Enforcement Division. An establishment licensed under Minn. Stat. § 340A.301, subd. 6(d) may sell “growlers” off-sale with appropriate City license.

Brewpub. Means the premises, operated in conjunction with a bar or restaurant, where malt liquor is produced by a Brewer and is sold for consumption on the premises and not sold to other bars, restaurants or wholesalers, unless permitted by State Law and issued a license by the Minnesota Department of Public Safety, Alcohol & Gambling Enforcement Division.

Club. Means an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans organization, which: (i) has more than fifty (50) members; (ii) has owned or rented a building or space in a building for more than one (1) year that is suitable and adequate for the accommodation of its members; (iii) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting called for that purpose. No member, officer, agent, or employee shall receive any profit, directly or indirectly, from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

Cocktail Room. Means the premises on which distilled spirits are produced by a micro distillery and sold for consumption on the premises and not sold to other bars, restaurants or wholesalers, unless permitted by State Law and issued a license by the Minnesota Department of Public Safety, Alcohol & Gambling Enforcement Division.

Distilled Spirits. Means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for industrial use.

Growler. Means a 64-ounce container of malt liquor brewed and sold to an individual on the site of a licensed Brewery Taproom for consumption off the licensed premises as prescribed for in MS 340A.301.

Hotel. Means any establishment having a resident proprietor or manager, where in consideration of payment therefore, food and lodging are regularly furnished to transients, which maintains for the use of its guests not less than ten guest rooms with bedding and other usual, suitable and necessary furnishings in each room, which is provided at the main entrance with a suitable lobby, desk and office for the registration of its guests on the ground floor, which employs an adequate staff to provide suitable and usual service and which maintains under the same management and control as the rest of the establishment and has, as an integral part therefore, a restaurant.

Liquor. Means 3.2 Malt Liquor, Intoxicating Liquor, Strong Beer/Malt Liquor, Wine.

Intoxicating liquor. Means ethyl alcohol and includes distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

3.2 Malt Liquor. Means any potable malt beverage with an alcoholic content of more than one-half percent ($\frac{1}{2}\%$) by volume and not more than three point two percent (3.2%) by weight.

Micro Distillery. Means a distillery producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

Off-sale. Means the sale of liquor in the original package in retail stores for consumption off or away from the premises where sold.

On-sale. Means the sale of liquor by the glass, or by the drink for consumption on the premises only.

On-sale wine license. Means a license authorizing the sale of wine not to exceed 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food unless otherwise permitted by State Law.

Original Package. Means the bottle or container in which the liquor is placed at the place of manufacture.

Principal part of the business. Means more than 35 percent (35%) of gross sales.

Restaurant. Means any establishment under the control of a single proprietor or manager, having appropriate facilities to serve meals, for seating not less than twenty-five (25) guests at one time in one or more dining rooms having a net dining area of at least 1,500 square feet, and where in consideration of payment therefore, meals are regularly served at tables to the general public and which employs an adequate staff for the usual and suitable service to its guests and the principal part of the business of which is the serving of foods. The term "restaurant," when used in connection with "on-sale wine or on-sale 3.2 malt liquor licenses, shall mean an establishment under the control of a single proprietor or manager, having appropriate facilities for serving meals and seating not fewer than 25 guests at one time, and where, in consideration of payment thereof, meals

are regularly served at table to the general public and which employs an adequate staff to provide the usual and suitable service to its guests.

Sale, sell, and sold. Means all barters and all manners of furnishing intoxicating liquor including such furnishing in violation or evasion of law.

Section 6-3. Non-applicability.

- (a) This chapter does not apply to:
 - (1) Medicines intended for therapeutic purposes and not intended as a beverage;
 - (2) Industrial alcohol designed for mechanical, chemical, scientific, pharmaceutical, or industrial purposes; or
 - (3) Non-potable compounds or preparations containing alcohol.

Section 6-4. License Required.

- (a) No person, except wholesalers or manufacturers, to the extent authorized under a State license, shall directly or indirectly deal in, sell or keep for sale any liquor for sale without first having obtained the proper license from the City.
- (b) No person shall mix or prepare intoxicating liquor for "on-sale" consumption in any public place not licensed in accordance with this Code and the laws of the State.

Section 6-5. Responsibility of Licensee

Every Licensee under this chapter is responsible for the conduct in the licensed establishment and any sale of alcoholic beverage by an employee authorized to sell alcoholic beverages in the establishment is the act of the licensee.

State law reference ---Adoption by references, Minn. Stat. §471.62

The following regulations govern all licenses issued under this Chapter:

- (a) The licensee shall act in a responsible manner toward the conduct of every person(s) on the premises.
- (b) The licensee shall not dispense liquor to be consumed off the premises on which it was purchased or received, unless specifically authorized by appropriate licensure through this chapter.
- (c) At all times during the operating hours of the establishment, the licensee shall have appointed an individual to serve as the manager or person in charge of the operation of the establishment.
- (d) The licensee shall require all their employees who are engaged in the selling or serving of alcoholic beverages, or serving as security personnel in the establishment, to abstain from the use of alcohol while working.
- (e) Applicable to On-Sale License Holders: Between 11:00 p.m. and closing, on Fridays, Saturdays, Sundays, Thanksgiving Eve and Day, July 3rd and July 4th and New Years Eve and Day no licensee, responsible party or employee or agent of a licensee shall:
 - (1) Sell, offer to sell, or deliver to any person or group of persons any drink or drinks

containing liquor at a price less than the price charged for such drinks prior to 11:00 p.m.

- (2) Sell, or offer to sell, or deliver to any person or group of persons multiple drinks containing liquor for a single price.
- (3) Give away a drink or drinks containing liquor at no cost.
- (4) Increase the volume of liquor contained in a drink without increasing proportionately the price charged for such drink.
- (f) Between 1:00 a.m. and closing, the performance of live music, DJ's, or other live entertainment, is prohibited

Section 6-6. Restrictions involving sale, etc., to minors, etc.

- (a) No person shall give, sell, procure or purchase liquor to or for any person to whom the sale of liquor is forbidden by law; nor shall a licensee, or his/her agent or employee, permit such person to be furnished or consume any such liquors on the licensed premises.
- (b) No person under twenty-one (21) years of age shall misrepresent his/her age for the purpose of obtaining liquor nor shall he/she enter upon any premises licensed for the retail sale of intoxicating liquor for the purpose of purchasing or having served or delivered to him/her for consuming any such intoxicating liquor; nor shall any such person purchase, attempt to purchase, consume or have another purchase for him/her any intoxicating liquor.
- (c) No person under eighteen (18) years of age may serve or sell liquor in a retail liquor establishment.
- (d) It is unlawful for any person to induce a person under the age of twenty-one (21) years to purchase or procure any liquor, or to lend or knowingly permit the use of the person's driver's license, permit, state identification card, or other form of identification by a person under the age of twenty-one (21) years for the purpose of purchasing or attempting to purchase liquor.
- (e) Any person who may appear to the licensee, his/her employees or agents, to be under the age of twenty-one (21) years shall, upon demand of the licensee, his/her employee or agent, produce and permit to be examined, documentation on the proof of age. Proof of age for purchasing or consuming liquor shall be established by one of the following:
 - (1) A valid driver's license or identification card issued by Minnesota, another State, or a province of Canada, and including the photograph and date of birth of the licensed person;
 - (2) A valid military identification card issued by the United States Department of Defense;
 - (3) A valid passport issued by the United States; or
 - (4) In the case of a foreign national, by a valid passport.
- (f) In a prosecution under subsection (e) of this section, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in subsection (e) of this section in selling, bartering, furnishing, or giving the liquor.

Section 6-7. Other restrictions on purchase or consumption.

No person shall give, sell, procure or purchase liquor for any person to whom the sale of liquor is forbidden by law.

Section 6-8. Effective area of license.

No license issued under this Chapter shall be effective beyond the building space and attached courtyards, patios or gardens as approved by the City and as shown in the license application for such license.

Section 6-9. Enlargement, alteration, or extension of premises.

Proposed enlargement, alteration or extension of premises previously licensed shall be reported to the City Clerk at or before the time of application is made for a building permit for any such change and the licensee shall also give such other information as is required by this Chapter

Section 6-10. Display of license.

Every license issued under this article shall be posted in a conspicuous place on the licensed premises at all times.

Section 6-11. Persons eligible.

- (a) No license under this Chapter may be issued to:
 - (1) A person under twenty-one (21) years of age;
 - (2) A person who has had an intoxicating liquor, 3.2 percent malt liquor, Brewery Taproom or Wine license revoked within five (5) years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent (5%) of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
 - (3) A person not of good moral character and repute;
 - (4) A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler;
 - (5) Who, if an individual, is an illegal alien;
 - (6) A person who would be ineligible under law or ordinance for such a license;
 - (7) Who directly or indirectly holds an interest in any other establishment in the City to which a license of the same class has been issued under this Chapter. The term "interest" as used in this Chapter includes any pecuniary interest in the ownership, operation, management or profits of a retail liquor establishment, but does not include bona fide loans, bona fide fixed sum rental agreements, bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, or supplies to such establishment; or an interest of ten percent (10%) or less in any corporation holding a license. A person who receives money from time to time directly or indirectly from a licensee, in the absence of a bona fide

consideration therefore and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such retail license. In determining "bona fide" the reasonable value of the goods or things received as consideration for any payment by the licensee and all other facts reasonably tending to prove or disprove the existence of any purposeful scheme or arrangement to evade the prohibitions of this section shall be considered;

- (8) Who, if a corporation, does not have a manager who is eligible pursuant to the provisions of this Chapter.
 - (9) Who is the spouse of a person ineligible for a license under this Chapter, 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.
 - (10) No license shall be granted, or renewed, for operation on any premises, to an applicant who owes taxes, assessments, or other financial claims to the City which are delinquent and unpaid. In the event an action has been commenced pursuant to the provisions of Minn. Stat. § Chpt 278 challenging the amount or validity of taxes, the City Council may, upon written request by the licensee, waive strict compliance with these provisions; however, no waiver may be granted for taxes, or any portion thereof, which remain unpaid for a period exceeding one (1) year after becoming due.
- (b) In addition, no retail license shall be issued to, and the City Council shall refuse to renew the license of, a person who, within five (5) years of the license application, has been convicted of a felony or a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.
 - (c) Licenses in connection with premises of another. An intoxicating liquor license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this article. This subsection does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a noncitizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of Minn. Stat. § 340A.

Section 6-12. Premises ineligible for license.

- (a) Existence of any of the following conditions render any premises ineligible for receipt of a license under this Chapter:
 - (1) No license shall be granted, or renewed, for operation on any premises, to an applicant who owes taxes, assessments or other financial claims to the City which are delinquent and unpaid. In the event an action has been commenced pursuant to the provisions of Minn. Stat. § Chp. 278 challenging the amount or validity of taxes, the City Council may, upon written request by the licensee, waive strict compliance with this provision; however, no waiver may be granted for taxes or any portion thereof, which remain unpaid for a period exceeding one (1) year after becoming due.
 - (2) No license shall be granted for a foreign corporation.
 - (3) 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.

- (4) No on-sale license intoxicating liquor license shall be granted for a restaurant which does not comply in all respects with the definition of a restaurant as contained in this Chapter, nor to any restaurant which does not have a total market value, including land, building and equipment, of at least \$250,000.00, as appraised by the City Assessor and based upon current valuations. Brewery taprooms are exempt from this requirement.
- (5) No on-sale license shall be granted for a hotel which does not comply in all respects with the definition of a hotel as contained in this Chapter, nor to any hotel which does not have a total market value, including land, building and equipment, of at least \$1,000,000.00 as appraised by the City Assessor.
- (6) No "on-sale" license shall be granted to restaurants, hotels, brewery taprooms, brewpubs or cocktail rooms, unless they are located in a location that is properly zoned for the business.

Section 6-13. Applicability of other laws.

Every license required by this Chapter shall be granted subject to the provisions of this Chapter and of any other applicable ordinance or law.

Section 6-14. Off-sale license prohibited.

The number of off-sale intoxicating liquor licenses that shall be issued by the City shall be zero.

Section 6-15. Fees; transferability.

- (a) The following provides provisional control as to license fees and related subjects:
 - (1) Annual license fees for liquor licenses shall be determined by the City Council after notice and hearing on any proposed increase. Notice of a proposed increase must be mailed to all affected licensees at least thirty (30) days before the date set for the hearing.
 - (2) The annual license fee shall be paid in full on or before December 15, or at the time of submittal of application for a new license, by cash or certified funds. All fees shall be paid into the general fund of the City. All licenses shall expire on December 31 of each year. Upon rejection of any application for a license, or upon withdrawal of application before approval of the issuance by the City Council, the license fee shall be refunded to the applicant. Once issued, refunds shall be made only under the conditions specified by Minn. Stats. § 340A.408 and upon request of the Licensee.
 - (3) The fee for a license granted after the commencement of the license year shall be prorated on a daily basis, except that there shall be no prorating of fees on investigations, renewals or transfers.
 - (4) A license may be granted for a premise where the building is not ready for occupancy, contingent upon the license being issued to the premise within ninety (90) days of the initial license approved by the City Council. If said license is not issued within the ninety (90) days, the applicant(s) must re-apply for a license as a new application and pay the applicable new application fee(s). No refunds shall be administered to an applicant when a license has been approved by the City but not issued because the building is not ready for occupancy and has not met the City's requirements to obtain a Certificate of Occupancy.

- (5) No transfer of a license shall be permitted from place to place or person to person without complying with the requirements of an original application except as provided for by this Chapter.
- (6) At the time of each original application for a license, the applicant shall pay in full an investigating fee. Investigation fees shall be determined by the City. No investigation fees shall be pro-rated or refunded.
- (7) At any time that an additional investigation is required because of a change of ownership or control of a corporation or because of an enlargement, alteration or extension of premises previously licensed, the licensee shall pay an additional investigating fee in the same amount as the original investigation fee.
- (8) Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required.

Section 6-16. Liability insurance/Proof of Financial Responsibility.

- (a) No license required by this Chapter may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility for liability that might be imposed under Minn. Stats. § 340A.801. The City shall, pursuant to Minn. Stats. § 340A.409, if applicable, submit to the Commissioner the applicant's proof of financial responsibility.
- (b) The minimum requirement for proof of financial responsibility shall be a certificate that there is in effect for the license period a liquor liability insurance policy providing at least \$300,000 of coverage, single limit or which may be satisfied in the manner provided in Minn. Stat. § 340A.409.
- (c) A liquor liability insurance policy required by this chapter must provide that the policy may not be canceled for:
 - (1) Any cause, except for nonpayment of premium, by either the insured or the insurer unless the canceling party has first given thirty (30) days' notice in writing to the City of intent to cancel the policy; and
 - (2) Nonpayment of premium unless the canceling party has first given ten (10) days notice in writing to the City of intent to cancel the policy.

Section 6-17. Council Discretion to Grant, Deny, Renew or Not Renew a License.

- (a) The City Council in its sole discretion may either grant or deny the application for any license or grant or deny a request for the transfer, modification or renewal of any license issued under this Chapter. No applicant has a right to a license under this Ordinance.
- (b) The City Council may take into consideration any nuisance call or calls relating to the premises when considering the application, transfer, modification, or renewal of any license. For the purpose of this section, "nuisance call" shall be defined as follows: Any activity, conduct, or condition occurring on or related to the premises, which results in a call or report to the Anoka Police Department or any other law enforcement agency, including, but not limited to, called and reports related to the following:
 - (1) Any conduct, activity or condition alleged to constitute disorderly conduct, pursuant to Minn. Stat. § 609.72.
 - (2) Any conduct, activity or condition alleged to constitute a public nuisance, pursuant to Minn. Stat. § 609.224

- (3) Any conduct, activity or condition alleged to constitute an assault pursuant to Minn. Stat. § 609.224
 - (4) Any conduct, activity or condition alleged to constitute a violation of Minnesota Statutes relating to prostitution, controlled substances, use of firearms, criminal sexual conduct, and gambling.
 - (5) Any conduct, activity or condition alleged to constitute a violation of the Anoka City Code.
- (c) Any violation of any provision of the Anoka City Code, or nuisance call, regardless whether or not a criminal charge has been brought or a criminal conviction has been obtained, may be used by the Council, at its discretion, when considering the granting, denying, suspension revocation, transfer, modification or renewal of a license.

Section 6-18. License Renewal.

- (a) Applications for the renewal of an existing license shall be made by December 1st of each calendar year and shall be made in such form as the City may require.
- (b) License Holders of an On-Sale Intoxicating Liquor or Wine License, must submit at the time of submittal of an application to renew their license, a statement made and signed by a Certified Public Accountant that shows the total gross sales and the total food sales of the business for the 12-month period immediately preceding the date for filing renewal applications, which verifies that a minimum of 35% of the total gross sales is derived from the sale of food for On-Sale Intoxicating Liquor License Holders and On- Sale Wine License holders, unless precluded from this requirement by State Law.

Section 6-19. Suspension or Revocation.

The City Council may suspend or revoke any liquor license for a violation of Minn. Stat. § 340A.415 and shall revoke such license for any willful violation, which under the laws of the State is grounds for mandatory revocation, and shall revoke for failure to keep the insurance required by this chapter. The City Council may revoke or suspend any license or impose a civil fine for any violation of this chapter or State law relating to alcoholic beverages. The procedure to be followed shall be as set forth in Minn. Stat. § 340A.415.

Section 6-20. Responsibility for conduct at place of business.

Every licensee under this chapter shall be responsible for the conduct at his/her place of business and for the conditions of sobriety and order in the place of business and on the premises.

Section 6-21. Inspection of premises.

All premises where any license under this Chapter is granted shall be open to inspection by a licensed police officer or other properly designated officer or employee of the City at any time during which the place so licensed is open to the public for business.

Section 6-22. Inspection of records.

The business records of the licensee, including federal and state tax returns shall be available for inspection by the City Manager, or other duly authorized representative of the City at all reasonable times.

Section 6-23. Changes in business organization.

Changes in the corporate or association officers, corporate charter, articles of incorporation,

bylaws or partnership agreement, as the case may be, shall be submitted to the City Clerk within thirty (30) days after such changes are made.

Section 6-24. Off-sale prohibition.

No licensee under this article shall sell liquor off-sale unless provided for by proper licensure within this Chapter.

Section 6-25. Age of employment.

No person under eighteen (18) years shall be employed in any rooms in which liquors are sold at retail, unless permitted by State Law

Section 6-26. Gambling & Gambling Devices prohibited.

No licensee under this Chapter or any of his/her employees shall keep, possess or operate or permit the keeping, possession or operation of any slot machine, dice or any gambling device or apparatus on the licensed premises, or in any room adjoining the licensed premises.

Notwithstanding the provisions of this section, lottery tickets may be purchased and sold within the licensed premises as authorized by the Director of the lottery under Minn. Stat. § 349A.

Section 6-27. Display of liquor.

No licensed liquor establishment shall display liquor to the public during hours when the sale of liquor is prohibited by this article.

Section 6-28. Ownership of equipment and fixtures.

No equipment or fixture in any licensed place shall be owned in whole or in part by any manufacturer or distiller of intoxicating liquor except such as shall be expressly permitted by state law. In the case of a corporation, the licensee shall notify the City Clerk when a person not listed in the application acquires an interest which, together with that of his spouse, parent, brother, sister or child, exceeds five percent, and shall give all information about such person as is required of a person pursuant to the provisions of this chapter.

Section 6-29. Sale of ethyl alcohol or similar products.

The retail sale for beverage purposes of ethyl alcohol or neutral spirits, or substitutes thereof, possessing the taste, aroma and characteristics generally attributed to ethyl alcohol or neutral spirits, as such, is hereby, prohibited. Nothing in this section shall be construed to prohibit the sale of other products obtained by the use of ethyl alcohol or neutral spirits as defined in U.S. Treasury Department, Bureau of Internal Revenue, Regulations 125, Article 11, Standards of Identity for Distilled Spirits.

Section 6-30. Restaurants, hotels, and brewpubs.

A restaurant, hotel or brewpub which holds an On-Sale Intoxicating Liquor or On-Sale 3.2 Malt Liquor License shall be conducted in such a manner that the principal part of the business is the serving of food. The principal part of the business for a license year must be the serving of food, which means that not less than 35% of the total gross sales in a consecutive 12-month period prior to submittal of the license is attributed to the sale of food (for renewal licenses only).

Section 6-31. Notice Posting.

Premises licensed for the retail sale of alcoholic beverages shall display the notice required under Minn. Stat. § 340A.410, subd 4b.

Section 6-32. Original packaging and composition.

No licensee shall sell, offer for sale or keep for sale, liquors in any original package, which has been refilled or partly refilled. No licensee shall directly or through any other person delete or in any manner tamper with the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of any intoxicating liquor in the original package differing in the composition or alcoholic content in the liquor when received from the manufacturer or wholesaler from whom it was purchased shall be *prima facie* evidence that the contents of the original package has been diluted, changed or tampered with.

Section 6-33. Service in guest rooms and with meals at hotels.

No sale of liquor shall be made to or in guest rooms of hotels, unless the rules of such hotels provide for the service of food in guest rooms; nor unless the sale of such liquor is made in the manner "on-sale" are required to be made; nor unless such sale accompanies and is incident to the regular service of meals to guests therein; nor unless the rules of such hotel and the description, location and number of such guest rooms are fully set out in the application for a license.

Section 6-34. Prohibition for places of public gathering for entertainment or amusement.

No license issued under this Chapter shall give permission to sell liquor or wine in any theatre, recreation hall or center, dance hall, ballpark or other place of public gathering for the purpose of entertainment or amusement, and no such liquor shall be consumed thereon, unless provided for by law and issued a license by the City.

Section 6-35. Interests of manufacturers, affiliates and subdiaries.

No license holder or manufacturer of liquor nor any affiliate or subsidiary company of such manufacturer shall sell liquor except as allowed by law. An affiliate or subsidiary company shall be one in which such manufacturer or its stockholders own a majority of the stock.

State Law reference: Interests of Brewers in retail Minn. Stat. §340A.301; prohibited transactions between brewers, wholesalers and retailers MS 340A.508.

Section 6-36 thru 6-49. Reserved.

CHAPTER 6. ALCOHOLIC BEVERAGES

ARTICLE II. On-Sale Intoxicating Liquor & Wine Licenses

Section 6-50. Classifications.

Licenses addressed within this Article shall be of three kinds: On-Sale Intoxicating, which includes On-Sale Intoxicating Liquor Club License as defined by State Law, Temporary On-Sale Intoxicating Liquor and Wine.

- (a) On-sale licenses within this article shall be granted only to businesses or organizations listed in Section 6-51 of this Article and shall permit the sale of such liquor for consumption on the premises only.
- (b) On-sale licenses within this Article may be granted to Theatres as authorized in Minnesota Statutes 340A.404 (b).
- (c) Temporary on-sale licenses may be issued as set forth in this Chapter to permit the sale of liquor for consumption on a specific premises for a specific time period described in the license, subject to such special terms and conditions as the City may prescribe or as required by State Law.
 - (1) Notwithstanding any other provisions of this Chapter or any other ordinance to the contrary, the City may issue a "temporary-on-sale" license to itself for the dispensing of 3.2 percent malt liquor at City parks.

Section 6-51. Businesses and organizations allowed a license.

- (a) On-sale intoxicating liquor licenses shall be issued only to:
 - (1) Hotels;
 - (2) Restaurants and brewpubs; whose principal part of business is the sale of food.
 - (3) Bowling centers;
 - (4) Clubs or congressionally chartered veterans organizations with the approval of the Commissioner, provided that the organization has been in existence for at least three (3) years and liquor sales will only be to members and bona fide guests.
 - (5) Theatres, as authorized in Minnesota Statutes 340A.404 (b).
 - (6) Brewery Taprooms (see Article IV).
 - (7) Cocktail Rooms (see Article IV).

Section 6-52. Application.

- (a) Application for a license under this Article shall be made on the State Liquor Control Division Form provided for such licenses and shall be accompanied by an application provided by the City which provides necessary information as determined by the City and State Law.
- (b) Every application for a license shall be verified and filed with the City Clerk.

Section 6-53. Procedure for issuance.

The following procedure shall be followed in processing applications for licenses under this Article:

- (a) All applications shall be referred to such City departments as the City deems necessary for the verification, investigation and inspection of premises and facts as set forth in the application.
- (b) After receipt of the reports and recommendations by the City staff the City Council shall conduct a public hearing. Prior to such hearing the City Clerk shall publish in the official newspaper a notice of public hearing setting forth the day, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted and such information as the City may determine. Such notice shall be published at least ten (10) days prior to the hearing. At the hearing opportunity shall be given to any person to be heard for or against the granting of a license. After the hearing the City Council may either grant or deny the license. If the license is granted, the City Council may withhold its issuance until the applicant has qualified in all respects for the license. If the premises to be licensed are not complete at the time that the hearing is conducted, the City Council may grant the license but shall withhold its issuance until the premises have been completed in accordance with the requirements of this Code and other ordinances of the City and in accordance with the representations made by the applicant.
- (c) Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application.
- (d) The City Clerk shall, within ten (10) days after the issuance of any license under this article, submit to the Commissioner the full Licensee information as required by the Commissioner, along with the effective and expiration date of the license. The City Clerk shall also submit to the Commissioner proof that Liquor Liability/Proof of Financial Responsibility is in place for the licensed period.

Section 6-54. Bonds.

- (a) At the time of filing an application for a license under this Article, the applicant shall file with the City Clerk one of the following:
 - (1) A bond in the amount of \$5,000 with corporate surety;
 - (2) A one-time cash security deposit in the form of a cashier's check in the amount of \$5,000; or
 - (3) A letter of credit in the amount of \$5,000.
- (b) The surety bond or letter of credit required by this Article shall be subject to the approval of the City.
- (c) The surety on such bonds shall be a surety company duly licensed to do business in the State and the letters of credit shall be a bank duly licensed to do business in the State. The bond or letter of credit shall be approved as to form and execution by the City. All surety bonds and letters of credit, when approved by the proper City officers, shall be deposited with the City Clerk.
- (d) All such bonds, cash security deposits, and letters of credit shall be conditioned as follows:
 - (1) The licensee will obey the laws relating to the licensed business.
 - (2) That the licensee will pay to the City when due all taxes, license fees, penalties and other charges provided by law.

- (3) That in the event of violation of any law relating to the business for which the license has been granted for the sale of liquor, the bond, cash security deposit or letter of credit shall be forfeited to the City.
- (e) All such bonds and letters of credit shall run concurrent with the period of the license, and shall provide that no cancellation for any cause can be made either by the bonding company, the applicant or the bank, without such person first giving thirty (30) days' written notice to the City, addressed to the City Clerk, of intention to cancel the bond or letter of credit.

Section 6-55. Hours of operation & Security.

- (a) No "on-sale" of intoxicating liquor shall be made during the times when such sale is prohibited by State law.
- (b) No "on-sale" of intoxicating liquor shall be made:
 - (1) Between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, except as provided within this Article.
 - (2) After 1:00 a.m. on Sundays, except as provided by this Article.
- (c) On-Sale Intoxicating Liquor Licensees shall evacuate the premises by 1:30 a.m. every day, except as provided for in this Article.
- (d) Sunday Sales; On-Sale.
 - (1) It is unlawful for any establishment, directly or indirectly, to sell or serve intoxicating liquors on Sundays without first having obtained a Special Sunday License from the State of Minnesota and the City of Anoka for a period of one (1) year for a fee to be determined by City Council. A special license may be revoked by the governing body for cause. Application for the special license shall be made to the City in the same manner as applications for other licenses to sell intoxicating liquor are made.
 - (2) Establishments to which a Sunday On-Sale License has been issued to or hereafter may be issued to, which are hotels, restaurants, brewpubs or clubs as defined by Minn. Stat. § 340.07 and the Anoka City Code, and which have facilities for serving not less than thirty (30) guests at one time, may serve intoxicating liquors during the times as prescribed by State law and in connection with the serving of food provided that the licensed establishment is in compliance with the Minnesota Clean Indoor Air Act.
- (e) Sales after 1:00 a.m.; Special 2:00 a.m. License.
 - (1) State Permit Required. No licensee may sell intoxicating liquor "on-sale" between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Commissioner of the MN Department of Public Safety, Liquor Control Division, pursuant to Minnesota Statutes.
 - (2) City's Special 2:00 a.m. License Required. No licensee may sell intoxicating liquor "on-sale" between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a Special 2:00 a.m. License from the City. Special 2:00 a.m. licenses are at a fee established by the City Council. Special 2:00 a.m. Licenses shall run concurrent with the licensee's original On-Sale Intoxicating Liquor License for a period of one year to expire on December 31st.
 - (3) Days Permitted. Special 2:00 a.m. Licenses shall be issued only to allow sales

until 2:00 a.m. on Fridays, Saturdays, Sundays, Mondays, March 18th, Thanksgiving Day, July 5th and New Years Day.

- (4) Special 2:00 a.m. Licensees shall be required to offer the sale of food to its customers until 1:00 a.m. on Fridays, Saturdays, Sundays, Mondays, March 18th, Thanksgiving Day, July 5th and New Years Day.
- (5) Special 2:00 a.m. Licensees shall evacuate the premises by 2:30 a.m. on Fridays, Saturdays, Sundays, Mondays, March 18th, Thanksgiving Day, July 5th and New Years Day.

(f) Security Requirements for Special 2:00 a.m. License Holders in the Downtown Entertainment District.

- (1) Security Personnel must be on site for all licensed locations that hold a Special 2:00 a.m. License.
 - a. A minimum of one (1) Security Person shall be on-site from 11:00 p.m. until closing on Fridays, Saturdays, Sundays, Mondays, March 17th, March 18th, Thanksgiving Eve and Day, July 4th and July 5th and New Years Eve and Day.
 - b. A Security Person shall be posted at every entrance and exit to the business from 1:00 a.m. until closing on Fridays, Saturdays, Sundays, Mondays, March 17th, March 18th, Thanksgiving Eve and Day, July 4th and July 5th and New Years Eve and Day. Fire exits that are used only in emergency situations are excluded from this requirement.
- (2) Security personnel shall be clothed in wear or have clearly displayed identification tags, that identify them as security personnel and which provides their name and the name of the establishment for which they are providing the security service.

(g) Plastic Beverage Containers for Special 2:00 a.m. License Holders located in the Downtown Entertainment District.

Between the hours of 1:00 a.m. and closing, plastic beverage containers must be used for or in the distribution of beverages at establishments located in the Downtown Entertainment District. Containers must have the business names printed upon the container or other visible identification as agreed upon by City staff. Manufactured bottle beverages are excluded from this requirement.

Section 6-56. Wine licenses.

- (a) The City may issue an On-Sale Wine License with the approval of the Commissioner to a restaurant having facilities for seating at least 25 guests at one time. A wine license permits the sale of wine of up to 24 percent (24%) alcohol by volume for consumption with the sale of food. A wine license authorizes the sale of wine on all days of the week unless the City Council authority restricts the license's authorization to the sale of wine on all days except Sundays.
- (b) The City Council may by ordinance authorize the holder of an On-Sale Wine License issued pursuant to this Chapter, who is also licensed to sell 3.2 percent malt liquors at on-sale, and whose gross receipts are at least 35 percent (35%) attributable to the sale of food, to sell Strong Beer on-sale without an additional license, unless otherwise permitted by State Law.
- (c) The City may issue an On-Sale Wine License with the approval of the Commissioner to a

licensed bed and breakfast facility. A license under this section authorizes a bed and breakfast facility to furnish wine only to registered guests of the facility.

Section 6-57. Temporary On-Sale Intoxicating Liquor Licenses.

Temporary licenses for the on-sale of intoxicating liquor shall be issued on the following terms and conditions, as well as those set forth in this Article:

- (a) A club or charitable, religious or other nonprofit organization in existence for at least three (3) years may apply for and be granted a temporary license for the on-sale of intoxicating liquor in connection with a social event within the City. The license shall be issued for not more than four (4) consecutive days, which may authorize sales on premises other than those owned or permanently occupied by the holder of an on-sale liquor license.
- (b) Applicant must have been in existence and actively engaged in programs in the City intended to further and promote the purposes for which organized for a period of at least eighteen (18) consecutive months prior to the date of application for such license.
- (c) Application for a license under this section shall be made on the State Liquor Control Division form provided for such licenses and shall be accompanied by application and license fees in the amounts determined by the City Council and proof of financial responsibility in the amount of \$300,000.00 single limit coverage. All applications must be submitted to the City Clerk at least thirty (30) days in advance of the days for which such license is requested. Upon review of the application, the City Council shall approve or disapprove the license in its discretion after considering input from any person heard for or against the granting of the license, based upon consideration of the health, safety and general welfare of the citizens of the City.
- (d) Licenses issued under this section are subject to all laws and ordinances governing the sale of liquor except Minn. Stats. § 340A.409 and those laws and ordinances which by their nature are not applicable. Licenses under this section are not valid unless approved by the Commissioner.

Section 6-58. License renewal.

- (a) At the time of submittal of an application for a renewal of an On-Sale Intoxicating Liquor or Wine license, that has been in effect for a full twelve (12) preceding months, the applicant shall file with the City Clerk a statement made and signed by a Certified Public Accountant that shows the total gross sales and the total food sales of the restaurant for the 12-month period immediately preceding the date for filing renewal applications, which verifies that a minimum of 35% of the total gross sales is derived from the sale of food. Licensees that hold a "Club" license as defined by Minnesota Statutes are exempt from this requirement. Licensees that have obtained special legislation from the State of Minnesota are exempt from this requirement.

Section 6-59. Suspension or revocation.

The City Council may suspend or revoke an On-Sale Intoxicating, Wine or Temporary On-Sale Intoxicating Liquor License for the violation of Minn. Stats. § 340A and shall revoke such license for any willful violation which, under the laws of the State, is grounds for mandatory revocation, and shall revoke for failure to keep the insurance required by this chapter. The City Council may revoke or suspend any license or impose a civil fine for any violation of this chapter or State law relating to alcoholic beverages. The procedure to be followed shall be as set forth in Minn. Stats. § 340A.415.

Sections 6-60 thru 6-79. Reserved.

CHAPTER 6. ALCOHOLIC BEVERAGES

ARTICLE III. 3.2 Percent Malt Liquor

Section 6-80. Classifications.

3.2 percent malt liquor licenses shall be of three (3) kinds: on-sale, off-sale, and temporary on-sale.

- (a) On-sale 3.2 malt liquor licenses shall be granted only to cafes, restaurants and hotels where food is prepared and served for consumption on the premises and in bona fide clubs, and shall permit the sale of such liquor for consumption on the premises only.
- (b) Off-sale licenses shall be granted to permit the sale at wholesale or retail of such liquor in the original packages for removal from and consumption off the premise only.
- (c) Temporary on-sale licenses may be issued as set forth in this Article to permit the sale of such liquor for consumption on a specific premises for a specific time period described in the license, subject to such special terms and conditions as the City may prescribe or as required by State Law.
 - (1) Notwithstanding any other provisions of this article or any other ordinance to the contrary, the City may issue a "temporary-on-sale" license to itself for the dispensing of 3.2 percent malt liquor at City parks.

Section 6-81. Application.

- (a) Application for a license under this Article shall be made on the State Liquor Control Division Form provided for such licenses and shall be accompanied by an application provided by the City which provides necessary information as determined by the City and State Law.
- (b) Every application for a license shall be verified and filed with the City Clerk.

Section 6-82. Procedure for Issuance.

The following procedure shall be followed in processing applications for licenses issued under this Article:

- (a) All applications shall be referred to such City departments as the City deems necessary for the verification, investigation and inspection of premises and facts as set forth in the application.
- (b) Upon successful completion of verification, investigation and necessary inspections, all new licenses shall be submitted to the City Council for approval.
- (c) The City Clerk shall, within ten (10) days after the issuance of any license under this article, submit to the Commissioner the full Licensee information as required by the Commissioner, along with the effective and expiration date of the license. The City Clerk shall also submit to the Commissioner proof that Liquor Liability/Proof of Financial Responsibility is in place for the licensed period.

Section 6-83. Temporary On-Sale 3.2 Malt Liquor Licenses.

Temporary licenses for the on-sale of 3.2 percent malt liquor shall be issued on the following terms and conditions, as well as those set forth in this Article:

- (a) A club or charitable, religious or other nonprofit organization in existence for a least three (3) years may apply for and be granted a temporary license for the on-sale of 3.2 malt

liquor in connection with a social event within the City. The license shall be issued for not more than four (4) consecutive days, which may authorize sales on premises other than those owned or permanently occupied by the holder of an on-sale liquor license.

- (b) Applicant must have been in existence and actively engaged in programs in the City intended to further and promote the purposes for which organized for a period of at least eighteen (18) consecutive months prior to the date of application for such license.
- (c) Application for a license under this section shall be made on the State Liquor Control Division form provided for such licenses and shall be accompanied by application and license fees in the amounts determined by the City Council and proof of financial responsibility in the amount of \$300,000.00 single limit coverage. All applications must be submitted to the City Clerk at least thirty (30) days in advance of the days for which such license is requested. Upon review of the application, the City Council shall approve or disapprove the license in its discretion after considering input from any person heard for or against the granting of the license, based upon consideration of the health, safety and general welfare of the citizens of the City.
- (d) Licenses issued under this section are subject to all laws and ordinances governing the sale of liquor except Minn. Stats. § 340A.409 and those laws and ordinances which by their nature are not applicable. Licenses under this section are not valid unless approved by the Commissioner.

Section 6-84. Suspension or revocation.

The City Council may suspend or revoke an On-Sale 3.2% Malt Liquor, Off-Sale 3.2% Malt Liquor or Temporary On-Sale 3.2% Malt Liquor License for the violation of Minn. Stats. § 340A and shall revoke such license for any willful violation which, under the laws of the State, is grounds for mandatory revocation, and shall revoke for failure to keep the insurance required by this chapter. The City Council may revoke or suspend any license or impose a civil fine for any violation of this chapter or State law relating to alcoholic beverages. The procedure to be followed shall be as set forth in Minn. Stats. § 340A.415.

Sections 6.85 thru 6.89. Reserved.

CHAPTER 6. ALCOHOLIC BEVERAGES

ARTICLE IV. Brewery/Taproom License and Micro Distillery Cocktail Room License

Section 6-90. Classification(s).

A Brewer licensed under Minn. Stat. § Section 340A.301 may be issued an On-Sale Brewery Taproom License for the “on-sale” of malt liquor produced on the licensed premises which may also be sold to other bars, restaurants and off-sale liquor stores if permitted by State Law and issued a license by the Minnesota Department of Public Safety, Alcohol & Gambling Enforcement Division, and a Micro Distillery licensed under Minn. Stat. § 340A.301 may be issued an On-Sale Cocktail Room License for the “on-sale” of distilled spirits produced on the licensed premises, which may also be sold to other bars, restaurants and off-sale liquor stores if permitted by State Law and issued a license by the Minnesota Department of Public Safety, Alcohol & Gambling Enforcement Division, subject to the following conditions:

- (a) The on-sale of malt liquor and distilled spirits may only be made during the days and hours that “on-sale” of liquor may be made, as prescribed by State Law or within this Chapter.
- (b) A Brewer may only hold one (1) Brewery Taproom License within the City.
- (c) A Mirco Distiller may hold only one (1) Micro Distillery Cocktail Room License within the City.
- (d) The only beveraged alcohol that may be sold or consumed on the premises of a licensed Brewery Taproom or Cocktail Room will be the malt liquor or distilled spirits produced by the Brewer or Micro Distiller upon the Brewery Taproom or Cocktail Room Premises.
- (e) The holder of a Brewery Taproom License is permitted by this Article to sell Growlers, as defined in Article I of this Chapter, during the times prescribed by State Law..

A Brewery Taproom License may not be issued to a Brewer if the Brewer seeking the license, or any person having an economic interest in the Brewer seeking the license or exercising control over the Brewer seeking the license, is a Brewer that brews or produces more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually, as defined and prescribed by Minn. Stat. § 340.301.

A Cocktail Room License may not be issued to a Micro Distillery if the Micro Distiller seeking the license, or any person having an economic interest in the Micro Distillery seeking the license or exercising control over the Micro Distillery seeking the license, is a Micro Distiller that produces more than 40,000 proof gallons of premium, distilled spirits in a calendar year.

Section 6-91. Application.

- (a) Application for a license under this Article shall be made on the application provided by the City which provides necessary information as determined by the City and State Law.
- (b) Every application for a license shall be verified and filed with the City Clerk.

Section 6-92. Procedure for Issuance.

The following procedure shall be followed in processing applications for licenses issued under this Article:

- (a) All applications shall be referred to such City departments as the City deems necessary for the verification, investigation and inspection of premises and facts as set forth in the

application.

- (b) Upon successful completion of verification, investigation and necessary inspections, all new licenses shall be submitted to the City Council for approval.
- (c) Licenses issued under this article are subject to all laws and ordinances governing the sale of liquor except Minn. Stats. § 340A.409 and those laws and ordinances which by their nature are not applicable.

Section 6-93. Suspension or revocation.

The City Council may suspend or revoke a Brewery Taproom License or Cocktail Room License for any violation of Minn. Stats. § 340A and shall revoke such license for any willful violation which, under the laws of the State, is grounds for mandatory revocation, and shall revoke for failure to keep the insurance required by this chapter. The City Council may revoke or suspend any license or impose a civil fine for any violation of this chapter or State law relating to alcoholic beverages. The procedure to be followed shall be as set forth in Minn. Stats. § 340A.415.

CHAPTER 10. ANIMALS

ARTICLE I. In General

State law references--General authority relative to animals, Minn. Stats. §§ 410.33, 412.221, subd. 21; animal health, Minn. Stats. ch. 35; stray animals and companion animals, Minn. Stats. ch. 346; dogs and cats, Minn. Stats. ch. 347; cruelty to animals, Minn. Stats. § 343.20 et seq.

Section 10-1. Definitions.

For the purposes of this Chapter, the following terms and definitions apply:

Animal. "Animal" shall mean any mammal, reptile, amphibian, fish, bird, or other member commonly accepted as part of the animal kingdom. Animals shall be classified as follows:

Domestic Animal. Animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

Farm Animal. Animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, and other animals associated with a farm.

Non Domestic Animal. Means those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

- (a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards, and jaguars, but excluding commonly accepted domesticated house cats.
- (b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
- (c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
- (d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
- (e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
- (f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including by not limited to bears, deer, monkeys, and game fish.

Section 10-2.

Animals Prohibited.

Unless otherwise noted in this chapter, no person shall keep, harbor, or maintain care custody, or control, over any non-domesticated or farm animal with the City limits.

Section 10-3.

Running at large; disposal of feces; barking dogs.

- (a) Any domestic animal within the City shall not be permitted by the owner to run at large within the City. For purposes of this section the term "at large" means any animal not restrained by chain or leash not exceeding eight feet, except:
 - (1) Police dogs;
 - (2) Animals restrained in a vehicle, fenced-in area, or building;
 - (3) Animals on the premises of the owner and under the control of the owner or a member of his family.
- (b) Feces of any domestic animal shall be properly disposed of by the owner and shall be promptly removed from any public property or any private property not owned by the owner of the animal.
- (c) No person shall own, keep, harbor, or be in physical control of a dog or cat that is a nuisance. No person shall permit a dog or cat to be a nuisance. It shall be a nuisance for any animal when unprovoked to: bite, attack or endanger the safety of humans or domestic animals; to run at large; to habitually or frequently bark or cry; to frequent school grounds, parks or public beaches when unrestrained; to chase vehicles; to molest or annoy any person if such person is not on the property of the owner or custodian of the animal; to molest, defile, or destroy any property, public or private; or to leave excrement on any property, public or private.
- (d) The provisions of this section shall not apply to the ownership or use of seeing eye dogs by blind persons, dogs when used in police activities by the city, or tracking dogs when used by or with the permission of the city.
- (e) It is a petty misdemeanor to violate the provisions of this section. It is a misdemeanor to violate the provisions of this section more than once within any 12-month period.

State law reference--Livestock at large, Minn. Stats. § 346.16 et seq.

Section 10-4.

Rabies quarantine.

- (a) Whenever a domestic animal such as a dog, cat or other domestic animal capable of transmitting rabies, bites a person causing a puncture, laceration, abrasion or similar type wound or break in the skin or any time the saliva of such animal comes into contact with a puncture, laceration, abrasion or similar type wound or break in the skin of a person, the animal shall be placed under quarantine for a ten day period from the date of the bite or saliva exposure.
- (b) An animal under quarantine may be kept on the premises of the owner under the following conditions:
 - (1) The animal must be kept confined in a building or other suitable structure or enclosure from which the animal cannot escape, and which prohibits contact with other animals or persons other than immediate

family members. An outside kennel or fenced yard is not a suitable structure or enclosure for quarantine purposes.

- (2) The animal may not be removed or released from the building or structure except the animal may be taken to a veterinary hospital to receive emergency veterinary care or the animal may be taken outside (limited to the premises of the owner) to urinate and defecate, provided the animal is securely leashed and under the immediate supervision of a responsible person. When outside the animal shall not be allowed to come into contact with any animals or persons other than immediate family members. When an animal has finished, it shall be immediately returned to the building where it is being confined for the quarantine period.
 - (3) The animal may not be vaccinated against rabies virus during the quarantine period.
 - (4) The animal must be made available to the city police department or state health department for inspection at reasonable times during the quarantine period.
 - (5) The animal may not be authorized or otherwise killed except upon order of the state health department or the city police department.
 - (6) If the animal becomes sick or dies during the quarantine period, the city police department shall be notified immediately. The carcass of any animal that dies during the quarantine period shall be immediately turned over to the city police department or state health department.
- (c) If the owner fails to comply with any of the above conditions, the animal shall be immediately impounded for the duration of the quarantine period at the city dog pound at the expense of the owner. The owner of an animal may impound the animal at the city dog pound for the quarantine period if he chooses, at his own expense.

State law reference--Rabies control, Minn. Stats. § 35.255 et seq.

Sections 10-5 thru 10-30. **Reserved.**

Section 10-31. **Interference with officers.**

It shall be unlawful for any unauthorized person to break open the pound or attempt to do so or to take or let out any animal from the pound or to take or attempt to take from any officer any animal taken up by him in compliance with this article or in any manner to interfere with or hinder such officer in the discharge of his duties under this article.

Section 10-32 thru 10-50. **Reserved.**

Section 10-51. **City pound; pound keeper.**

A city pound is hereby established for the purpose of enforcing this chapter. The Chief of Police shall be pound keeper.

Section 10-52. **Impoundment.**

The police officers of the city shall impound any animal prohibited by section 10-1, any animal running at large, or any animal not licensed as required by law.

Section 10-53.

Release.

Upon impounding any animal, reasonable effort shall be made to notify the owner and the owner may obtain the animal from the pound by payment of the impounding fee as set from time to time by the city council. If a dog or cat has not been licensed, it may be released to its owner on condition that the owner furnishes proof of obtaining a license within five days after release. Failure to furnish such proof within five days shall constitute a violation of this Code.

Section 10-54.

Disposition of unclaimed animals.

Any animal which is not claimed within five days impoundment may be sold or painlessly killed and disposed of at the direction of the pound keeper.

State law reference--Notification of owners of impounded animals,
Minn. Stats. § 346.55.

Section 10-55.

Destruction of animals.

The pound master and all police officers of this city are authorized to kill any animal subject to impoundment that cannot be safely taken up and impounded.

Sections 10-56 thru 10-80.

Reserved.

CHAPTER 10. ANIMALS

ARTICLE II. Dogs and Cats

***State law reference--Dogs and cats, Minn. Stats. ch. 347.**

Section 10-81. Restriction on number; exception.

- (a) No dog or cat shall be kept within the city limits unless a license therefore shall first be secured. No person shall keep more than three cats, or a mixture of dogs and cats, not to exceed three pets in total, at one residence within the city, except that a fresh litter of pups or kittens may be kept for a period of three months. Annual licenses shall be issued by the city clerk upon payment of the fee determined by council resolution.
- (b) Police dogs owned by and working for the City of Anoka Police Department shall be exempt from the license fees. All health records regarding such police dogs shall be maintained by the police department.

Section 10-82. Inoculation against rabies.

The owner of any dog or cat shall have the dog or cat inoculated against rabies from time to time so as to maintain continuous protection against rabies and shall possess proof of such inoculation and period of effectiveness from a licensed veterinarian. All inoculations shall be effective for at least one year.

State law reference--Rabies control, Minn. Stats. § 35.255 et seq.

Sections 10-83 thru 10-100. Reserved.

Section 10-101. License Required; exemption for police dogs.

- (a) No dog or cat shall be kept within the city limits unless a license therefore shall first be secured. Annual licenses shall be issued by the city clerk upon payment of the fee determined by the council.
- (b) Police dogs owned by and working for the city police department shall be exempt from the license fees. All health records regarding such police dogs shall be maintained by the police department.

Section 10-102. Inoculation certificate prerequisite to issuance.

No license shall be issued for any dog or cat unless a certificate signed by a licensed veterinarian is filed with the application showing that the animal described in the application has been inoculated against rabies and that the inoculation is effective for at least one year from the date of application.

Section 10-103. Expiration date.

Licenses shall expire on January 1 next following their issuance.

Section 10-104. Fees.

It shall be the duty of every owner of a dog or cat to pay the license fee imposed in this code to the city clerk on or before January 1 in each year, or immediately upon acquiring ownership or possession of any unlicensed dog or cat or within five days after bringing any unlicensed dog or cat into the city.

Section 10-105.

Issuance of tags.

Upon the payment of the license fee, the clerk shall execute a receipt in duplicate. The clerk shall deliver the original receipt to the person who pays the fee, and retain the duplicate in the clerk's office. The clerk shall also procure a sufficient number of suitable tags, the shape of which shall be different for each license year, and shall deliver one appropriate tag to the person paying the license fee.

Section 10-106.

Affixing tags.

The owner shall cause the dog or cat tag to be affixed by a permanent fastening to the collar of the dog or cat so licensed, in such manner that the tag may be easily seen by the officers of the city. The owner shall see that the tag is constantly worn by such dog or cat, and any dog or cat found within the city without tag shall be deemed to be unlicensed.

Section 10-107.

Duplicate tags.

In case any dog or cat tag is lost a duplicate may be issued by the clerk upon the presenting of a receipt showing the payment of the license fee for the current year. A fee established by the city council shall be paid for each such duplicate tag.

Section 10-108.

Counterfeiting, unauthorized removing, etc., of dog or cat tags.

It shall be unlawful to counterfeit or attempt to counterfeit the tags provided for in this division.

Section 10-109.

Tags not transferable.

Dog and cat tags are not transferable, and no refunds shall be made on any dog or cat license.

Section 10-110

Dangerous Dogs.

The provisions of Minnesota Statutes Sections 347.50 through 347.56 are hereby adopted and incorporated by reference.

Section 10-111.

Designation of dangerous dogs.

The Chief of Police or a designee may declare an animal a "dangerous dog" as defined in Minnesota Statutes Section 347.50, subd. 2. The Chief of Police or designee shall notify the animal's owner in writing of the designation and provide information to the owner pertaining to the regulation of dangerous dogs. The owner of a "dangerous dog" must comply with all provisions of Minnesota Statutes Section 347.50 through 347.56.

Section 10-112.

Regulation of potentially dangerous dogs.

(a) The Chief of Police or designee may declare an animal to be a "potentially dangerous dog" if one of the following criteria is met:

- (1) The animal, without provocation, attacks or bites a person or a domestic animal on public or private property;

- (2) The animal, without provocation, chases or approaches a person, including a person on a bicycle, upon the street, sidewalk or any public or private property, other than the dog owner's property in an apparent attitude of attack or in a menacing fashion;
 - (3) The animal has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threaten the safety of any person or domestic animal; or
 - (4) The animal is owned or harbored primarily or in part for the purpose of fighting or is trained for fighting.
- (b) The Chief of Police or designee shall notify the animal's owner in writing of the designation and provide information pertaining to the regulation of potentially dangerous dogs and shall provide the owner a copy of Minnesota Statutes Section 347.50 through 347.56 and this Code Section.
- (c) The owner of a potentially dangerous dog must have a microchip implanted in the dog for identification pursuant to Minnesota Statutes § 347.515.
- (d) Proof in the form of a receipt of the implanted microchip must be provided to the Chief of Police or designee within 14 days of notification. The name of the microchip manufacturer and identification number must also be provided.
- (e) The owner of the potentially dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure as defined in Minnesota Statutes Section 347.50, subd. 4, or on a substantial leash. For the purpose of the section, the term "substantial leash" means a leash that properly and completely restrains the potentially dangerous dog's movement.
- (f) The owner of the potentially dangerous dog shall muzzle and restrain the dog on a substantial leash not to extend more than six feet whenever off of the owners property. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration; similar to a basket-type muzzle.
- (g) The owner of a potentially dangerous dog must post a clearly visible purchased "Beware of the Dog" sign. The sign must be a least ten inches by fourteen inches in dimension.
- (h) The owner of a potentially dangerous dog shall notify the Anoka Police Department in writing of the death, sale or transfer of the dog within fourteen (14) days and inform the Police Department of the circumstances of the dog's death and disposition, or the complete name, address and telephone number of the person to whom the dog has been transferred.
- (i) A person who owns a potentially dangerous dog and who resides on a rental property must disclose to the property owner that a potentially dangerous dog will reside on the property.
- (j) Beginning six months after a dog is designated a "potentially dangerous dog;" an owner may request annually that the Chief of Police or designee review the designation. The owner must provide evidence that the dog's behavior has changed due the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the Chief of Police or designee finds sufficient evidence that the dog's behavior has changed, the designation may be rescinded.

- (k) The City of Anoka will charge the owner of a potentially dangerous dog an annual fee, as established in the Master Fee Schedule, in addition to any other fees required to license a dog in the City.

Section 10-113.

Appeal by Owner.

- (a) The owner of a dog designated as a "dangerous dog" or a "potentially dangerous dog" may appeal the designation by delivering a written notice of appeal to the Chief of Police or designee within seven (7) days after receipt of the notice of designation. The notice of appeal must identify the name, address and a telephone number of the owner and must state the basis for the appeal. Upon receipt of a valid notice of appeal, a hearing shall be held before a city hearing examiner, who shall not be a member of the city staff. The hearing shall be conducted pursuant to the Minnesota Rules of Administrative Hearings. The hearing examiner shall receive evidence whether the dog is "dangerous" or "potentially dangerous." Rules of evidence need not be strictly followed and the records of an animal control officer or law enforcement officer shall be considered without further foundation. After considering all evidence submitted, the hearing examiner shall issue a written order setting forth whether the animal is "dangerous" or "potentially dangerous." The order shall be made within five business days after the hearing and shall be served by mail or personal service upon the owner. The decision of the hearing examiner shall be final, but is appealable to a court of law according to Minnesota Statutes Section 484.01, subd. 1.
- (b) The hearing officer shall be appointed by the City Manager or his designee. The hearing officer shall receive compensation in an amount to be determined by the City Council. The decision of the hearing officer is effective the date it is issued, unless a later date is stated in the decision.

Section 10-114.

Violations.

Any person who violates or fails to comply with any provision of this Article may be charged with a petty misdemeanor or a misdemeanor.

Sections 10-115 thru 10-130.

Reserved.

CHAPTER 10. ANIMALS

ARTICLE III. Non-Domesticated Animals and Farm Animals Prohibited.

Section 10-131. Animals prohibited.

Unless otherwise noted in this Chapter, no person shall keep, harbor, or maintain care custody, or control over any non-domesticated or farm animal within City Limits.

Section 10-132. Exceptions to prohibition; permit required.

- (a) Any person desiring to keep an animal prohibited by this ordinance may apply for a temporary wild animal permit from the city council. Such permit may be issued for a period not to exceed 30 days and shall specify conditions under which such animals shall be kept. No such permit shall be issued unless such prohibited animal is brought into the town for entertainment, exhibition or show purposes only, or by persons keeping animals for a public zoo as volunteers, docents or otherwise. A public zoo or other institution engaged in a permanent display of animals, any bona fide research institution or veterinary hospital may be issued a permanent wild animal permit provided applicable zoning requirements are met.
- (b) Nonpoisonous snakes or snakes not prohibited by this ordinance, birds kept indoors, hamsters, mice, rabbits lizards and similar small animals capable of being kept in cages continuously are also exempt and do not require a permit.
- (c) Handicapped persons may keep monkeys trained as personal helpers by wild animal permit subject to annual review.
- (d) Before issuance of any temporary or permanent wild animal permit, the applicant shall provide the city with proof of insurance, including public liability insurance with limits of not less than \$1,000,000.00. The insurance shall provide coverage for liability resulting from the ownership or possession of the specific animal or animals being permitted.

Section 10-133. Non-Domesticated Animals and Farm Animals; At Large.

Any non-domesticated or farm animal kept in violation of this ordinance may be impounded by the City unless such impounded animal is reclaimed and removed from the City or issued a permit to allow it to remain in the City or the owner petitions the district court for a determination that the animal is exempt from the provisions of this ordinance. Such an impounded animal may be destroyed, sold or otherwise disposed of five (5) days following notice to the owner of the animal's impoundment and the provisions of this article.

Sections 10-134 thru 10-150. Reserved.

CHAPTER 10. ANIMALS

ARTICLE IV. Poultry and Fowl

Section 10-151. Poultry and Fowl Permitted.

A person may keep, harbor, or maintain care custody, or control over no more than four (4) chickens, ducks, geese or other fowl or poultry or combination of defined by this article within City limits. No roosters shall be permitted.

Section 10-152. Facilities .

- (a) All poultry and fowl must be contained with the following restrictions:
- (1) Housing facilities and grounds shall be maintained in a clean and sanitary condition, and in good repair. Flies, rodents and noxious odors shall be controlled. Facilities shall be kept free of fecal matter and collected fecal material shall be properly stored and disposed.
 - (2) Facilities shall remain fully enclosed to prevent outside animals and migratory birds from entering the holding facility.
 - (3) Stored fecal mater shall not be allowed to accumulate on the property. Stored fecal matter shall be removed at least once a week.
 - (4) Construction and maintenance of the holding facilities shall comply with all zoning codes in Chapter 74 and State building codes. Fencing shall be consistent with regulations of Chapter 74. A holding structure shall be defined as an accessory building in the zoning code.

Section 10-153. Maintenance of Fowl and Poultry.

- (a) Fowl not to be at large. No person owning or keeping chickens, ducks, geese, or other fowl or poultry may permit the same to run at large or enter upon the premises of another without permission, nor may any such fowl or poultry be kept, raised or permitted to go on any street, park, Jake, or public ponding area.
- (b) Confinement of fowl and poultry. Fowl and poultry must be confined to the holding facility except for short periods of time of exercise during which time they must abide to Section 10-153 (a).
- (c) Injury or annoyance to others. No fowl or poultry may be kept or raised in a manner as to cause injury or annoyance to persons or other animals on other property in the vicinity by reason of noise, odor, or filth.
- (d) Impounding fowl or poultry. Any fowl or poultry at large in violation of this section may be impounded by the City, and after being impounded for five (5) business days or more without being reclaimed by the owner, may be humanely euthanized or sold. A person reclaiming any impounded fowl or poultry shall pay the cost of impounding and keeping the same.
- (e) Feeding Area. Fowl and poultry shall be fed within the confines of the holding facility. Feeding areas must be fully enclosed to prevent access from outside animals and migratory birds.
- (f) Manner of Feeding. Feeding fowl or poultry in a manner that results in the attraction of animals that cause property damage, a threat to public health or

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animal health due to the number or type of animals attracted by excessive amounts of feed or feeders being placed, or the byproducts of the feed accumulating, are deemed a public nuisance and are prohibited.

Section 10-154

Special Removal

- (a) The City reserves the right to eliminate all fowl and poultry within City limits if a pandemic regarding fowl and poultry is declared.

Sections 10-155 thru 10-170.

Reserved.

CHAPTER 14. LICENSING; AMUSEMENTS AND ENTERTAINMENT

ARTICLE II. Arcades and Pool Halls

Section 14-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arcade. Means any business establishment, building, structure or tract of land which devotes 30 percent or more of its floor space to the public use of the following amusement or any combination of any of the following amusements:

- (a) Foosball, air hockey or pigeon hole tables;
- (b) Pinball machines;
- (c) Shooting gallery machines;
- (d) Any electric or electronic device or game patterned after table tennis, hockey, and similar games, including electric rifle or gun ranges;
- (e) Any mechanical or electrical device which is designed to be played by a contestant or contestants and upon which the contestants receive a score or rating based upon their performance.

The calculation of floor space shall include the area occupied by or reserved for persons who use or are waiting to use the amusements.

Section 14-32 thru 14-50. Reserved.

Sec. 14-51. License Required.

No person shall operate an arcade or pool hall without first paying a license fee and obtaining and having a current license as herein provided. The license required under this section shall be in addition to any license or licenses required to be obtained under any other provision of this Code.

Sec. 14-52. Application.

Any person desiring to operate an arcade or pool hall or to renew his license to conduct such activity shall file with the City Clerk an application on forms provided by the City Clerk for that purpose. The application form shall contain the following, together with any other information which the City Manager may require:

- (a) Full legal name, date of birth and address of applicant;
- (b) Address of the proposed arcade or pool hall, and a diagram of the proposed floor plan of the premises;
- (c) The full legal name, date of birth, and address of all persons owning or having an interest in the licensed premises and in the proposed business. In the case of a corporation, this shall include the full legal names, dates of birth, and addresses of the officers and directors of the corporation and all shareholders who own alone or in conjunction with their spouse or children more than ten percent of the issued share of the corporate stock;
- (d) If the licensed business is owned by a corporation, a copy of the certificate of incorporation, articles of incorporation and bylaws of the corporation;

- (e) The full legal name, date of birth and address of the manager or managers who will supervise the licensed activity;
- (f) Whether any of the persons listed in subsections (1), (3) or (5) of this section have been engaged in the business of operating an arcade or pool hall in the last five years;
- (g) Whether any of the persons listed in subsections (1), (3) or (5) of this section have been convicted of a crime or have had an application for an arcade or pool hall license denied, revoked or suspended within the last five years;
- (h) The applicant's plan of security for the licensed premises.

Section 14-53. License fee.

The license fee shall be for the calendar year and must accompany the license application. The license fee shall be set by the Council which may set a higher fee for the first year than for license renewals.

Section 14-54. Bond.

- (a) At the time of filing an application for an arcade license under this section, the applicant shall file a bond with a corporate surety with the City Clerk in the amount of \$5,000.00. Alternatively, the applicant may file a cash bond in the same amount. All such bonds shall be kept in full force and effect throughout the license period and shall be conditioned as follows:
 - (1) The licensee shall obey the laws relating to the licensed business;
 - (2) The licensee shall pay to the city when due all taxes, license fees, penalties and other charges provided by law;
 - (3) In the event of violation of any law relating to the business for which the license has been granted, the bond shall be forfeited to the city.

Section 14-55. Investigation and recommendation.

- (a) All applications for licenses shall be referred to the Chief of Police and to such other persons on the city staff as the City Manager shall deem necessary for investigation and recommendation. The persons to whom an application has been referred shall make their report and recommendations in writing.
- (b) Upon receipt of the written reports and recommendations, the City Manager shall cause to be published in the official newspaper, at least ten days in advance, a notice of public hearing to be held by the City Council setting forth the day, time and place when the hearing will be held, the name of the applicant and the location where the business is to be conducted.
- (c) The application, together with the City Manager's recommendation, shall be submitted to the City Council at the hearing. After the hearing, the Council may grant or deny the license. In granting the license, the Council may impose special conditions as it deems such conditions to be necessary because of particular circumstances related to the application.

Section 14-56. Ineligibility.

- (a) Existence of any of the following conditions shall render the applicant ineligible for a license:

- (1) If the applicant or manager of the licensed business is:
 - a. Under 18 years of age;
 - b. An alien, a non-U.S. Citizen;
 - c. A foreign corporation.
- (2) If the applicant, manager or persons owning the licensed activity:
 - a. Is not a person of good moral character and repute; and/or
 - b. Has been convicted of an offense which relates to the conduct of the licensed business.
- (3) If the applicant has operated a similar business elsewhere which operation did not substantially comply with the provisions of this section relating to the manner in which the business is conducted;
- (4) If the applicant has been denied a license to conduct a like or similar activity or has had such license suspended, revoked or canceled.

Section 14-57. Conditions of License.

- (a) Issuance and retention of licenses shall be subject to each of the following conditions:
 - (1) Only premises which are located in a zoning district where the licensed business is authorized in the City may be licensed;
 - (2) No premises may be licensed unless sufficient visibility exists from outside the entrance to the premises for a person of average stature to visually survey the entire premises and all possible locations of patrons therein;
 - (3) Arcades shall prohibit the consumption of alcoholic beverages, whether classified as intoxicating or non-intoxicating, or the use of any controlled substance upon any part of the licensed premises;
 - (4) Arcades shall not be open for business prior to 10:00 a.m. or after 9:00 p.m. Pool halls shall not be open for business between the hours of 1:00 a.m. and 9:00 a.m.;
 - (5) No person under the age of 14 years shall be permitted to enter or remain upon any part of the licensed premises unless accompanied by his parent or legal guardian;
 - (6) Adequate off-street parking for automobiles must be provided in compliance with the current Code requirements;
 - (7) The licensed premises shall fully comply with all applicable state and local regulations dealing with health, zoning and building requirements;
 - (8) The licensee shall be responsible for maintaining order on all parts of the licensed premises;
 - (9) Only amusements with a current valid city license sticker attached may be offered for use or kept on the licensed premises;
 - (10) No wagering or betting for a consideration or any other gambling shall be permitted on the licensed premises;

- (11) The licensed activity shall be conducted in such a manner and located in such a place so as not to be likely to result in injury or damage to persons or property in the neighborhood or injurious, annoying or disruptive to patrons of other businesses located in the area;
- (12) The applicant or manager or assistant manager designated in the license application shall be present on the premises during all times the premises are open;
- (13) A uniformed security officer shall be present on arcade premises during all times that the premises are open;
- (14) No more than ten amusement devices shall be allowed on any one premises licensed as an arcade.

Section 14-58. Suspension or revocation of license.

- (a) The license may be revoked or suspended in accordance with this article whenever the licensee, its owner, manager, or any of its employees or agents have engaged in any of the following conduct:
 - (1) Fraud, deception or misrepresentation in connection with the securing of a license;
 - (2) Conduct inimical to the interests of public health, safety and welfare;
 - (3) Conduct involving moral turpitude;
 - (4) Conviction of an offense involving moral turpitude by any court of competent jurisdiction;
 - (5) Failure to comply with any of the provisions of this section or engaging in conduct which would be grounds for denial of an initial application for licensure.

Section 14-59 thru 14-80.

Reserved.

CHAPTER 14. LICENSING; AMUSEMENTS AND ENTERTAINMENT

ARTICLE IV. Entertainment Devices

Section 14-131. Definition.

The term “entertainment device,” as used in this article shall include foosball, air hockey, or pigeon hole tables, pinball machines, shooting gallery machines, any electric or electronic device or game patterned after table tennis, hockey, and similar games, including electric rifle or gun ranges, and any other mechanical or electrical device which is designed to be played by a contestant or contestants and upon which the contestants receive a score or rating based upon their performance.

Sections 14-132 thru 14-150. Reserved.

Section 14-151. License Required; exception.

No person shall maintain, keep or sell, within the City, an entertainment device without a license therefore from the City. This section shall not apply to electronic devices held or kept in storage or for sale, and which are not actually in use or displayed for use, or to electronic devices located in a private dwelling and used exclusively for private entertainment.

Section 14-152. Entertainment devices; license approval; annual license fee; location fee.

(a) Licenses for entertainment devices shall be issued for an annual period from January 1 through December 31 for each year, provided, however that the initial license fee for each applicant shall be prorated as of the date of the application. The application for a license shall be submitted for approval to the City manager and, if approved, the City shall thereafter issue the license upon payment of appropriate fees. The applicable fees shall be:

- (1) An annual fee for each business location regardless of the number of machines in the amount established by the City council;
- (2) An annual license fee for any of each machine.

State law reference--Limitation on license fee on amusement machines, Minn. Stats. § 449.15.

Section 14-153. Contents; display.

Each license shall accurately describe the entertainment device, shall show the name of the owner, address where such machine is located, the license fee and the period for which a license is granted, such license shall at all times be conspicuously displayed where such entertainment device is operated.

Section 14-154. Conditions for licensure.

(a) Issuance and retention of licenses shall be subject to each of the following conditions:

- (1) All entertainment devices shall be located within the confines of the licensee's primary business premises but shall not be located in entryways, hallways, or in areas which are not directly supervised by the licensee nor shall they be located in any area separated from the licensee's principal business activity;

- (2) The licensee shall be responsible for maintaining order on all parts of the premises;
- (3) No wagering or betting for consideration or any other gambling shall be permitted on the premises;
- (4) All entertainment devices shall be located and their use shall be supervised in such a manner that personal injury or property damage is not likely to result from the location or use of the devices;
- (5) All entertainment devices shall be located and their use supervised such that the location and use of the devices does not annoy or disrupt persons in the neighborhood or patrons of other businesses located in the area;
- (6) No more than eight amusement devices shall be allowed on any one-business premises.

Section 14-155.

Revocation.

The license provided in this article may be revoked by the City Council for any violation of any provision of this article, but only after reasonable notice and an opportunity to be heard.

Sections 14-156 thru 14-180. Reserved.

CHAPTER 14. LICENSING; AMUSEMENTS AND ENTERTAINMENT

ARTICLE V.

Charitable & Legalized Gambling

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- ***State law reference**--Legalized gambling, Minn. Stats. Ch. 349; Local Regulation of Gambling, Minn. Stats. § 349.213.
- ***State law reference**--Local approval of licenses, Minn. Stats. § 349.213, subd. 2; local investigation fees, Minn. Stats. § 349.16, subd. 8.
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Section 14-181.

Purpose.

The purpose of this Article is to closely regulate and control the conduct of gambling and to ensure that profits derived from gambling activities in the City of Anoka provide, to the extent authorized by law, direct benefit to the citizens of Anoka.

Section 14-182.

Definitions.

For the purpose of this Article, the following words and terms will have the meanings given them:

Board. Minnesota State Gambling Control Board.

Lawful gambling. The operation of gambling activities by an organization eligible for a license from the Board to conduct such activities.

Lawful purpose. Will have meanings as provided in Minnesota Statutes Chapter 349, as may be amended from time to time.

Main Physical Office Location. Will mean the physical site for the organization headquarters or the registered business office of the organization, which is located within the City and has been located within the City for at least two (2) years immediately preceding the application, and which is the physical site where the organization regularly holds its meetings and conducts its activities, other than lawful gambling and fundraising. Post Office box numbers do not qualify as the main physical office location.

Net profits, lawful purpose, and allowable expenses. Will have meanings as provided in Minnesota Statutes Chapter 349, as may be amended from time to time.

Premise Permits. The authorization given by the Board, after passage of a resolution of recommendation and support by the City Council, for a named organization to operate lawful gambling activities at a specified location in the City.

Trade Area. The cities of Anoka, Andover, Champlin, Coon Rapids and Ramsey.

Section 14-183.

Statute incorporated.

The current provisions of Minn. Stats. Ch. 349 are adopted and made a part of this Article as if set out in full.

Section 14-184.

Licensing Requirements.

- (a) State License or Permit Required.

No organization shall directly or indirectly conduct gambling activities in the City without obtaining the necessary approval, license or permit from the Board.

Section 14-185.

Process for Consideration.

A copy of the application to be submitted to the Board, which describes the gambling activity and states where the gambling activity will be conducted, shall be supplied to the City Clerk at least thirty (30) days prior to the start date of the requested activity. The application shall be verified by a duly authorized officer of the organization or the designated gambling manager.

Section 14-186.

Organizations Eligible.

- (a) Organizations eligible to conduct gambling activities in the City shall be limited to fraternal, religious, veterans, or other non-profit organizations, which have been in existence for at least three (3) years.
- (b) Organizations must meet all qualifications for a gambling license issued by the Board.
- (c) Organizations may pay rent only up to the maximum rent allowed in leases to charitable organizations which is in compliance with what is set forth in Minnesota Statutes.
- (d) Organizations eligible to conduct gambling activities in the City shall be limited to organizations that have their main physical office located in the City of Anoka. Existing organizations and their premise permit locations that have been approved by the Anoka City Council prior to August 1, 2007 are exempt from this requirement as long as there is no lapse in their premise permit.
- (e) Organizations that are not eligible due to the main physical office location requirement, may be granted a waiver from the City Council, if within thirty (30) days from the date of submittal of their Premise Permit application to the City, no eligible organization meeting the physical office location requirement, has expressed to the City a desire to operate gambling activities at the premises applied for by the ineligible organization. The waiver would be granted only for the specific location set forth in the Premise Permit application and would remain in effect for the duration of the original Premise Permit license. Upon the need for renewal of a Premise Permit location, a non-eligible organization would follow the same process of approval as stated herein. The priority set by the City Council for granting approval of a premise permit application and its location shall be as follows:
 - 1. First priority given to organizations whose main office location is within the corporate limits of the City of Anoka.
 - 2. Second priority given to organizations whose main office location is located within the Anoka Area Chamber of Commerce limits and whose main office location is within a City that allows an Anoka based organization to hold a premise permit within their corporate limits, and who is eligible to be granted a waiver from the eligibility requirements by the Anoka City Council.
 - 3. Third priority is given to all other organizations that are eligible to be granted by waiver from the eligibility requirements by the Anoka City Council.

Section 14-187.

Disapproval of Premises Permit Issuance.

- (a) The City shall recommend disapproval of an application for a premise(s) from the Board if:

- (1) The City's investigation indicates that the organization or gambling manager failed to comply with the terms or conditions of any gambling license or indicates a history of noncompliance with State or local law regulating gambling activities; or
- (2) The premises on which the gambling is to be conducted are unsuitable for that purpose or the proposed activity reasonably can be expected to disrupt other activities in the neighborhood.
- (3) The premises upon which the activity is to be conducted lies within a zoning district where such activity would be prohibited.
- (4) The organization does not meet the eligibility requirements as stated in this Article.

Section 14-188.

Grounds for Revocation of Authority to Conduct Gambling Activities.

No organization shall have a vested right in conducting any gambling activities in the City and any authority granted for such activities may be revoked by Council at any time upon a showing that:

- (a) Any misrepresentation has been made to the City or the Board by the organization; or
- (b) The organization has violated any provision of this Article or applicable State law.
- (c) The organization failed to comply with any regulation as set forth in this Article.

Section 14-189.

Process for Revocation of Authority to Conduct Gambling Activities.

- (a) Upon determination by the City that there is sufficient grounds for revocation of an organization's authority to conduct gambling activities, the City shall:
 - (1) Notify the organization, in writing, that a public hearing will be held by the City Council, to consider the revocation of the organization's authority to conduct gambling activities in the City.
 - a. Notification in writing must be sent to the organization at least ten (10) days prior to the date the public hearing is held.
 1. The notice shall state the date, time and location of the public hearing and the nature of the charges against the organization.
 - (2) The City Council shall revoke an organization's authority to conduct gambling activities in the City, through adoption of a Resolution declaring the revocation and listing the grounds for the revocation. The date of revocation shall be immediately upon adoption of said resolution. The City shall forward a copy of the resolution to the Board.

Section 14-190.

Re-application after Revocation.

Any organization that has had their authority to conduct gambling activities in the City revoked by either the City of Anoka or the Board, shall be prohibited from conducting

any gambling activities in the City for one (1) full year from the effective date of the revocation.

Section 14-191.

Reporting Requirements for Premise Permit Holders.

Each organization which holds a State issued Premise Permit and is licensed to conduct lawful gambling activities in the City shall report monthly to the City its gross receipts, expenses and profits from those activities and the distribution of those profits, itemized as to payee, purpose, amount and date of payment. This requirement may be satisfied by submission of copies of the monthly reports required by the Board.

Section 14-192.

Expenditures For Lawful Purposes.

During any year that an eligible organization is licensed to conduct gambling events, not less than fifty percent (50%) of its lawful purpose expenditures will be for lawful purposes conducted or located within the trade area. A report of the expenditures for lawful purposes within the trade area shall be provided to the City each month after the date of the adoption of this requirement. Additional reports may be required as determined by the City.

Sections 14-193 thru 14-215.

Reserved.

CHAPTER 14. LICENSING; AMUSEMENTS AND ENTERTAINMENT

ARTICLE VII. **Special Events**

Section 14-251. **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, sanitary facilities, utilities and safety services.

Section 14-252. **Definitions.**

- (a) **Applicant** means any individual, partnership, corporation, association, society or group seeking and/or receiving a Special Events License from the City.
- (b) **City-Operated**. A Special Event organized and conducted by the City and largely funded by the City.
- (c) **City-Sponsored**. A Special Event organized and conducted by a tax exempt non-profit organization under Section 501(c) (3) through (10) of the Internal Revenue Code that the City has elected to support through appropriation of funds within the City's budget. This is typically an annual recurring event. This is an event that the City has determined is of general interest to the public and advances the City's public image.
- (d) **For Profit Sponsor**. A Special Event organized and conducted by a person, organization or company that does not qualify as a tax-exempt non-profit organization under Section 501 (c) (3) through (10) of the Internal Revenue Code.
- (e) **Gross Revenue**. Total revenue received from the event, prior to any deductions or allowances. When calculating gross revenue, proceeds from entry fees, participation, alcohol sales, and free-will donations are included.
- (f) **License or Special Event** means a license issued by the City to allow a Special Event.
- (g) **Licensed Location**. The location or locations where the Special Event will be occurring.
- (h) **Local Non-Profit**. A tax-exempt non-profit organization under Section 501(c) (3) through (10) of the Internal Revenue Code based within the City or the Trade Area.
- (i) **Non-Local Non-Profit Sponsor**. A tax-exempt non-profit organization under Section 501 (c) (3) through (10) of the Internal Revenue Code not based within the City or the Trade Area.
- (j) **Outdoor** means activity conducted outside of a permanent structure or building.
- (k) **Person** means any person, association, partnership, firm, business trust, corporation or company.
- (l) **Political Event Sponsor**. A Special Event organized and conducted by a political party, political committee, candidates, or candidates representative, for

purposes of a political rally, fundraising, campaigning, or similarly related political activity.

- (m) Residential Block Party. A private outdoor party, not open to the general public, organized by residents for the purpose of interacting informally with surrounding neighbors and which requires small sections of a City street to be temporarily blocked off. Such residential streets shall be limited to streets where no transit routes, commercial facilities, police or fire stations exist. Said party(s) is limited to one (1) day only, during the hours of 9:00 a.m. – 10:00 p.m., including set-up and clean-up. Attendance shall be free. No fee for entrance or participation shall be required, including but not limited to, a cover charge or for the sale of food or beverages. Voluntary donations from invited guests may be accepted by the Sponsor to off-set the party expenses; however, no guest shall be required to make such donation as a condition of attendance.
- (n) Trade Area. The cities of Anoka, Andover, Champlin, Coon Rapids and Ramsey.
- (o) Annual Special Event means any event that has been approved by the City and held once each year with no lapse in the event occurring each year, and where there are no substantial changes in the event details. City staff is responsible to determining whether or not changes are considered substantial.
- (p) Special Event means 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 Minn. Stats. Chapter 38.
 - (2) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings, etc.
 - (3) Garage sales.
 - (4) Non-recurring auctions.
 - (5) National Night to Unite Events established through the Anoka Police Department.
 - (6) Funeral processions.
 - (7) Lawful picketing on sidewalks.
 - (8) Activities conducted by a governmental agency acting within the scope of its authority.
 - (9) Residential neighborhood block parties, as long as they meet the requirements of a Residential Block Party, as defined in Section 14-252.

Section 14-253.

License Required.

No person on or after the effective date of this Article shall conduct or allow to be conducted any Special Event as defined in this ordinance without first obtaining a Special Events License. A License is not required for an annual Special Event provided that the City Clerk is notified at least sixty (60) days prior to the annual Special Event and the annual Special Event has not changed substantially from the previous Special Event.

Special Events that have been approved by the City and held in the City the year preceding the adoption of this Article, as amended on June 6, 2016, are exempt from the licensing requirements as established in this Article .

Section 14-254.

Requirements for Issuance of a License.

- (a) The following standards shall apply to all Special Events:
 - (1) **Maximum Number of People.** The Applicant shall not sell tickets to nor permit attendance at the License Location of more than the maximum number of people stated in the Special Event Application and/or Special Event License.
 - (2) **Sound Equipment.** Sound producing equipment, including but not limited to public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the Licensed Location 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 Anoka.
 - (3) **Sanitary Facilities.** Adequate sanitary facilities must be provided by the Applicant, which are sufficient to accommodate the projected number of persons expected to attend the Special Event.
 - (4) **Security.** The Applicant shall employ at their 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 Licensed Location. No License shall be issued unless the City's Chief of Police is satisfied that such necessary and sufficient security personnel will be provided by the Applicant for the duration of the Special Event.
 - (5) **Food Service.** If food service is made available on the Licensed Location, it shall be delivered only through concessions licensed and/or otherwise allowed by the Anoka County Environmental Services Department.
 - (6) **Fire protection.** The Applicant shall, at their own expense, take adequate steps to ensure adequate fire protection as determined by the City of Anoka Fire Chief.
 - (7) **Duration of Special Event.** The Applicant shall operate the Special Event only on those days and during the hours specified on the License.
 - (8) **Cleanup Plan.** The Special Event Applicant is responsible for clean-up costs. Any extraordinary clean up required as determined by the City will be charged to the Applicant, at the City's cost.
 - (9) **Waiver.** The City Council may grant a waiver from the requirements of this Article 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 may only be granted when there will be no detriment to the public health, safety or welfare and when such waiver will not impair the intent and purpose of these regulations.

- (10) **Miscellaneous.** Prior to the issuance of a License, the City Council may impose any other conditions reasonably calculated to protect the health, safety and welfare of persons in attendance or of the citizens of the City of Anoka.
- (b) The following additional standards shall apply to special events with an expected attendance of over 200 persons. Sufficiency of the requirements of these additional standards shall be determined by City staff.
- (1) **Crowd Control.** A fence or barrier shall be constructed that completely encloses the Licensed Location and shall be of sufficient height and strength to prevent people in excess of the maximum permissible number from entering the event. The fence or barrier shall have sufficient entrances and exits to allow easy movement into and out of the Special Event and provide traffic control onto established public roads systems. This requirement may be waived if the City Council determines that a fence will not be necessary for crowd control.
- (2) **Solid Waste Disposal.** A sanitary method of disposing of solid wastes, in compliance with State and local laws and regulations shall be provided and shall be sufficient to dispose of the solid waste production anticipated for the maximus number of people allowed by the License. Plans shall include a provision for holding and collecting all such waste at least once each day, sufficient trash containers and sufficient personnel to perform such tasks.
- (3) **Parking and Traffic Control.** A parking and traffic control plan for the number of persons projected to attend the Special Event must be submitted. Such plan must be sufficient to ensure a free flow of traffic and make available rapid access for emergency vehicles. Further, the Applicant shall provide adequate off-street parking facilities on the site or within one thousand five hundred (1,500) feet thereof to accommodate the projected number of persons expected to attend the Special Event.
- (4) **Recycling Collection & Processing.** Applicant will submit a plan to collect glass bottles, plastic bottles, and aluminum cans for the purpose of recycling. The plan shall include appropriate recycling containers to be placed next to each garbage container and marked for recycling, clearly distinguishing recyclable collection from garbage collection. The plan shall also provide details on separate containers for paper and corrugated cardboard recycling and include confirmation of personnel to perform all tasks involved in the coordination and follow through of recycling collection processing.
- Documentation shall be submitted to evidence that recycling collection service will be performed and the materials will be recycled through a licensed recycling hauler/facility. The Applicant shall supply to the City, within one (1) week following the event, the tonnage information (or weight slip) provided from the recycling hauler/facility acknowledging that materials were properly recycled.
- (5) **Bonding.** Before the issuance of a License, the Applicant shall obtain, from a corporate bonding company authorized to do business in Minnesota, a corporate surety bond in the amount of up to \$50,000, to be approved by the City Council. The exact amount shall be set by the City Council, conditioned upon the Applicant's faithful compliance

with all of the terms and provisions of this Chapter and all applicable provisions of state or local law, and which shall indemnify the City of Anoka, its agents, officer, and employees and the City Council against any and all loss, injury or damage whatsoever arising out of or in any way connected with the Licensed Location and for any costs attributable to cleaning up and/or removing debris, trash, or other waste resulting from the Special Event.

- (6) Insurance. Before the issuance of a License, the Applicant shall obtain public liability insurance with limits of not less than \$100,000/\$300,000 and property damage insurance with a limit of not less than \$50,000 from a company or companies approved by the State of Minnesota. Such insurance shall name the City of Anoka as an additional insured and shall remain in full force and effect in the specified amounts for the duration of the License. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the City Clerk in writing at least ten (10) days before the expiration or cancellation of said insurance.
- (7) Medical facilities. Medical or first aid facilities shall be provided which are sufficient to accommodate the projected number of persons to attend the Special Event.
- (8) Camping facilities. If the Special Event is to continue overnight, camping facilities in compliance with all state and local requirements may be provided in an amount sufficient to provide camping accommodations for the maximum number of people to be assembled for camping.
- (9) Lighting. The Applicant shall provide electrical illumination of all occupied areas sufficient to insure the safety and comfort of all attendees. The Applicant's lighting plan shall be pre-approved by City staff.
- (10) Potable water supply. Potable water, meeting all federal and state requirements for sanitary quality and sufficient to provide drinking water for the maximum number of people allowed at the Special Event, must be provided.

Section 14-255.

Application Procedures.

A City supplied written application for a Special Event License shall be filed with the City Clerk not less than sixty (60) days before the date proposed for holding the special event. The written application shall be signed by the Sponsor of the event, or their designee responsible for conducting the event and shall be accompanied by the applicable fee adopted in the City's Master Fee Schedule in effect at the time of submittal of the Application.

Section 14-256.

Fees and Charges.

- (a) The fee for a Special Events License shall be established by the City Council.
- (b) All Applicant's for Special Events licensed by this Article shall be required to pay for all costs incurred by the City to assist with the Special Event, including but not limited to equipment and materials costs, whether provided by the City or contracted by the City, over-time staff labor costs, security costs, electrical costs, etc. These costs are determined by City staff. Payment of these costs are due within thirty (30) days of the Special Event. Failure to pay these costs

within thirty (30) days of the Special Event may void an annual License and/or be cause for denial of a future Special Events License, as determined by the City Council.

- (c) The City Manager has the sole authority to determine which Special Events the City will provide financial, material, labor or other support to, and to what extent.
- (d) The Council may waive fees, recovery of costs or revenue sharing if the Special Event:
 - (1) Is free and open to the public, is non-political, serves a secular purpose.
 - (2) Enhances community pride and positive image, as determined by the City.
 - (3) Generates a positive economic impact for the City, as determined by the City.
 - (4) Generates positive media exposure and visibility for the City, as determined by the City.
 - (5) Demonstrates support for local charitable organizations.

Section 14-257.

Financial Reporting.

All Special Events licensed by this Article shall be required to submit the following:

- (a) At time of application submittal, a proposed budget detailing projected operational expenditures and projected revenues for the Special Event.
 - (1) Administrative costs (i.e. wages/salaries) may not exceed 20%.
- (b) No more than thirty (30) days after the Special Event, a finalized detailed financial statement that documents all administrative costs, expenditures, revenues and donation payout(s), consistent with Section 14-258.

Section 14-258.

Revenue Sharing.

All Special Events licensed under this Chapter must meet the following Revenue Sharing requirements:

- (a) No less than 80% of the gross revenue, after expenses, shall be donated to a local non-profit organization(s), approved by the City Council, through the approval of a Special Events License. Revenue Sharing includes entry and participation costs to the Special Event. Revenue derived from the sale of alcoholic beverages is considered part of the Revenue Sharing requirements. Revenue derived from the sale of food is not considered part of the Revenue Sharing requirements.

Section 14-259.

Operation.

The following standards shall be required in operation of a Special Event:

- (a) The Applicant or their agent(s) shall maintain the Licensed Location and facilities in a clean, orderly and sanitary condition at all times.

- (b) No dogs, cats or other animals shall be permitted to run loose on the Licensed Location.
- (c) No fires of any kind shall be permitted on the Licensed Location or in facilities, except in grills or at locations designated for that purpose, or as approved by the City.
- (d) No person shall engage in any conduct that violates a state, county, or local law or ordinances.
- (e) Any Special Event that incorporates the sale or distribution of alcoholic beverages must contract the sale of alcoholic beverages to a non-profit, charitable, or religious organization, or a State Licensed manufacturer of malt liquor, so long as the manufacturer meets all requirements of Minn. Stat. § 340A.404, Subd. 10, as may be amended. Such non-profit, charitable, religious organization, or State Licensed manufacturer of malt liquor, must obtain a Temporary On-Sale 3.2 Malt Liquor License or Temporary On-Sale Intoxicating Liquor License from the City, and adhere to all City, County and State Laws relating to the sale and/or distribution of alcohol.
- (f) Alcoholic beverages that are sold or distributed in conjunction with a Special Event will be limited to the following:
 - 1. 3.2 Malt Liquor;
 - 2. Wine, Strong Beer, other Malt beverages, which may not exceed 24% ABV, and which must be sold, distributed, or served as a beverage premixed by the manufacturer, and sold, distributed, or served directly from the manufacturer's individualized packaging containers, which may not exceed 12 ozs.
- (g) Any Special Event that incorporates the sale or distribution of food and/or beverages must obtain the proper County and/or State license. The Sponsor of the event must submit with their Special Event License application, a copy of the Anoka County Food License, or a copy of the Anoka County Mobile & Itinerant Food Service Licensing Reciprocity Agreement, pertinent to the Special Events' food and beverage sales and/or distribution.

Section 14-260.

Granting a license.

The City Council, in its sole discretion, reserves the right to review and determine whether or not a request for a Special Event is acceptable. It is the stated purpose of the City Council that all such Special Events 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 may be denied.

Prior to Council consideration of the License, the City shall notify the Anoka Business & Landowners Association, providing them with the Special Event details.

Section 14-261.

Denial of License.

- (a) The City Council shall have the right to deny the License if, in the judgment of the City Council, granting of a License would adversely affect the safety, health or welfare of the citizens of Anoka. Such denial may also be based upon the following circumstances:

- (1) The Special Event would unreasonably inconvenience the general public.
 - (2) The Special Event would unreasonably infringe upon the rights of abutting properties.
 - (3) The Special Event would conflict with another proximate event or interfere with construction or maintenance work.
 - (4) There are not sufficient safety personnel or other necessary staff to accommodate the Special event.
 - (5) Other issues in the public interest as identified by the City Council.
- (b) The Applicant shall be notified of such denial and may appear before the City Council to appeal the denial.
- (c) After the initial Special Event has taken place, any aggrieved person may appeal to the City Council to express objection to future issuance of a License to the Applicant for the same type Special Event. Such appeal shall be conducted through a public hearing, after having given ten (10) days notice to the Applicant, the aggrieved person and a public notice.

Section 14-262.

Transferability.

No transfer of a License shall be permitted from place to place, entity to entity, or person to person without complying with the requirements of an original Special Events License application.

Section 14-263.

Prohibited Special Event(s).

No Special Events License shall be issued to a Political Event Sponsor, as defined in this Article.

Section 14-264.

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 Article.
- (b) The holding of a Special Event in violation of any provision of this Article shall be deemed a public nuisance and may be abated as such.
- (c) Any person violating any provision of this Article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

Section 14-265.

Revocation of License.

The License 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 Article are violated.

CHAPTER 18: BUILDING AND BUILDING REGULATIONS

ARTICLE I.

General

Section 18-1.

Building numbers.

- (a) The owner of every residential, commercial or industrial structure, whether public or private, shall place house or building numbers on the structure as provided in this section. This section shall not apply to barns, private garages or other similar accessory buildings or structures used in connection with buildings or permanent structures displaying building numbers.
- (b) Each number of the street address of a structure shall be attached to the structure and shall be located in a position near the front door of each structure so as to be clearly visible from the street or road and not obstructed by any vegetation or other structure. If the structure is more than 100 feet from the street or road, a separate post with the numbers attached shall be placed within 30 feet of the street identifying the number of the structure on the property. If the structure also abuts an alley, building numbers shall also be attached in a conspicuous location to the alley side of the structure. If a garage or similar accessory building obstructs the view of the main structure from the alley, the building numbers for the structure shall be placed in a conspicuous location on the garage or accessory building. Each number of the address shall be four inches or greater in height and shall be of a color that contrasts with the color of the structure to which it is attached. The numbers shall be in Arabic form.
- (c) All structures for which numbers are required shall display numbers by June 1, 1985, except that new structures completed after that date shall display such numbers prior to the issuance of a certificate of occupancy if the structure is residential, or immediately upon use of the building if the structure is commercial or industrial.
- (d) Any person violating any of the provisions of this section shall be guilty of a petty misdemeanor.

State law reference--Authority to number buildings, Minn. Stats. §§ 410.33, 412.221, subd. 18.

Section 18-2.

Licensing of radon testing and abatement contractors.

- (a) No person in the city shall carry on the business of testing premises for the presence of radon nor designing, constructing or installing radon gas abatement systems or equipment without first having obtained a radon testing and abatement contractor's license from the city. This subsection shall not be construed to prohibit a general contractor or subcontractor from constructing ventilation systems or other active or passive building features intended to avoid the accumulation of hazardous concentrations of radon in new construction when such ventilation systems or other building features are included in plans and/or specifications which have been approved by the building official.
- (b) An applicant for a license as a radon testing and abatement contractor shall demonstrate to the satisfaction of the building official that such applicant has sufficient knowledge and skill to follow testing procedures approved by the building official, to select abatement methods appropriate to the individual circumstances of each case, and to implement those methods in a workmanlike and effective manner. Upon recommendation by the building official and the applicant's payment of the required license fee, the city council, after such investigation as it deems necessary, may grant or deny such license. Licenses shall be issued for one calendar year, or any remaining part thereof, and shall

expire on December 31 of each year unless renewed. The annual fee for a radon testing and abatement contracting license shall be as established by the council.

Section 18-3.

Plumber's bond and insurance.

- (a) Plumbers shall execute and deposit with the clerk a bond in the sum of \$2,000.00 executed by a surety company authorized to do business in this state. Such bond shall be drawn on a form furnished by the city, and shall be conditioned that the plumber shall in all respects well and faithfully perform all things by him undertaken in the making of connections, repairs or taps of any kind with the water mains or pipes connected with the waterworks system of the city, and shall save the city harmless of and from all accidents and damages consequent thereto or by reason of any opening in any street, lane or avenue made by him or any person in his employ, for the purpose of putting down service pipes connecting with the waterworks of the city, and that he will restore all streets excavated by him to their former good condition, and will keep and maintain the street and sidewalk in good condition, to the satisfaction of the city manager, for a period of one year next thereafter, and that he will pay all fines and penalties that may be imposed upon him by law.
- (b) A plumber shall also have personal liability insurance in the amounts of \$50,000.00 per claim and \$100,000.00 per accident and \$50,000.00 for property damage.

State law references--Plumbers generally, Minn. Stats. § 326.37 et seq.; local bond and insurance, Minn. Stats. §§ 326.38, 326.40, subd. 4.

Sections 18-4--18-30.

Reserved.

CHAPTER 18: BUILDING AND BUILDING REGULATIONS

ARTICLE II. Building Code

***State law reference--**State building code, Minn. Stats. § 16B.59 et seq.

Section 18-31. Organization and enforcement.

The organization of the building department and enforcement of the code shall be consistent with Minn. Stats. § 16B.65. The manager of the city shall designate a qualified person to the council for appointment as the city's building official.

Section 18-32. Minnesota State Building Code adopted.

The Minnesota State Building Code as adopted by the Commissioner of Administration pursuant to Minnesota Statutes Chapter 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota commissioner of Administration, through the Building Codes and Standards Division, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building code is hereby incorporated in this ordinance as if full set out herein..

Charter reference--Adoption by reference, § 3.11.

State law reference--Adoption by reference, Minn. Stats. § 471.62.

Section 18-33. Permits, inspections, fees, and time limits.

- (a) *Permits and Fess.* The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes. Permit fees shall be assessed for work governed by the Minnesota State Building Code in accordance with the City's adopted fee schedule. In addition, a surcharge fee shall be collected on all permits issued for work governed by the Minnesota State building Code in accordance with regulations set forth therein.
- (b) *Expiration.* Notwithstanding continuing or on-going work, any building permit issued by the city shall expire and by limitation be null and void if a certificate of occupancy and final completion has not been issued within the following applicable period of time after the date of permit issuance:
 - (1) Single-family residential dwellings, including new construction, remodeling or additions: 18 months.
 - (2) Accessory buildings on single-family residential properties: 12 months.
 - (3) All multifamily and nonresidential construction: 24 months unless a shorter or longer time is specified by the council at the time the original permit is issued.
 - (4) An expired building permit may be reissued once, for a term of one-half of its original duration, upon payment of an amount equal to one-half the original permit fee. Thereafter, if the permitted work is not completed within the applicable time period, a new permit may be issued only upon such conditions as the council by resolution may prescribe, including financial guarantees of completion by a specified date.

- (c) *Time limitations for exterior work.* Notwithstanding continuing or on-going work or the validity of any permit, all exterior work shall be completed as follows:
 - (1) No land shall remain disturbed and exposed without established grass or other ground cover for a period exceeding 12 months, or any lesser period as may be specified in the permit.
 - (2) All exterior construction including siding, roofing, doors, windows and finish shall be completed and present a finished appearance within 12 months of the start of construction.
 - (3) Failure to complete exterior work as required in this article shall result in suspension of the existing permit until a reinstatement fee equal to 100 percent of the original building permit has been made. Reinstatement of a building permit does not extend the term of the permit but is a prerequisite to reissuance when applicable.
- (d) *Unfinished construction.* Any unfinished construction for which there is no current building permit shall be governed by article III of this chapter in addition to any other applicable law.
- (e) *Existing permits.* Any permit outstanding at the time of the adoption of the ordinance from which this article is derived shall be limited as set forth in this article.

Section 18-34.

Violations and penalties.

Violations and penalties for violation of this article shall be as set forth in the Minnesota State Building Code.

Section 18-35--18-60.

Reserved.

CHAPTER 18; BUILDING AND BUILDING INSPECTIONS

ARTICLE III. Housing Standards

DIVISION 1. Generally

Section 18-61. Purpose.

- (a) The purpose of this article is to protect the public health, safety, 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 areas within the city;
 - (2) To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare, and health;
 - (3) To provide standards for heating and sanitary equipment and for light and ventilation necessary to protect the health and safety of occupants of buildings;
 - (4) To prevent the overcrowding of dwellings;
 - (5) To provide standards for the maintenance of existing residential buildings and accessory structures and to thus prevent substandard housing and blight;
 - (6) To preserve the value of land and buildings throughout the city.
- (b) With respect to disputes between tenants and landlords, and except as otherwise specifically provided by the terms of this article, it is not the intention of the city council to intrude upon the contractual relationship between the tenant and landlord. The city council does not intend to intervene as an advocate of either party, nor to involve itself in rent disputes, nor to act as an arbitrator, nor to hear complaints from tenant or landlord which are not specifically and clearly relevant to the provisions of this article.

Section 18-62. Definitions.

- (a) *Generally.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions contained in section 74-2 of this Code apply in this article. Additionally, the following definitions shall apply in the interpretation and enforcement of this chapter.

Accessory use or structures means a use or structure subordinate to, and serving the principal use or structure on the same lot and customarily incidental thereto which is not used for living or sleeping by human occupants.

Anoka Building Code means section 18-32 of this Code, adopting the Minnesota State Building Code as the building code for the city.

Building means any structure having a roof which may provide shelter or enclosure for persons, animals, or chattel, and when such structure is divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Building official means the designated agent authorized by the city council to administer and enforce this article.

Dwelling means a building or one or more portions thereof, occupied or intended to be occupied for residential purposes, including at least one dwelling unit or rooming unit, but not including rooms in motels, hotels, nursing homes, trailers, tents, cabins, or trailer coaches.

Dwelling unit means a single-family dwelling or unit designed to accommodate one family.

Family means:

- (1) An individual, or two or more persons related by blood, marriage or adoption living together; or
- (2) A group of not more than five persons who need not be related by blood, marriage or adoption, living together as a single house keeping unit in a dwelling unit, exclusive of resident domestic employees.

Flush water closet means a toilet with a bowl and trap made in one piece, which is connected to the city water and sewer system or other approved water supply and sewer system.

Garbage means the animal and vegetable waste resulting from the handling, preparing, cooking, marketing, or processing of food, or the nonconsumed waste resulting from animals or humans consuming food.

Habitable building means 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 means a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements (those without required ventilation, required electric outlets and required exit facilities), pantries, utility rooms of less than 50 square feet of floor space, foyers, connecting corridors, stairways, closets, storage spaces, workshops, and hobby and recreation areas in parts of the structure below ground level or in attics.

Heated water means water heated to a temperature of not less than 110 degrees Fahrenheit, or such lesser temperature required by government authority, measured at faucet outlet.

Kitchen means a space which contains a sink with counter working space, space for installing cooking and refrigeration equipment, and space for the storage of cooking utensils.

Maintenance means the upkeep of property and equipment in a safe working condition for which it was installed and/or constructed.

Multiple-family dwelling means a dwelling or portion thereof containing two or more dwelling units.

Occupant means any person (including owner operator) who lives, sleeps, cooks, and eats in a dwelling unit or lives and sleeps in a rooming unit.

Operate means to charge rent for the use of a dwelling or a rooming unit.

Operator means the owner or his agent who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.

Owner means any person, firm, or corporation who alone, jointly, or severally with others has title to any dwelling, or who has charge of, care of, or control of such property on behalf of the title holder. Any person representing the actual owner shall be bound to comply with the provisions of this ordinance to the same extent as the owner.

Permissible occupancy means the maximum number of persons permitted to reside in a dwelling unit or rooming unit.

Person means an individual, firm, partnership, association, corporation, company, or joint venture or organization of any kind.

Plumbing means 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, bath basins, drains, vents, and any other similar fixtures and the installation thereof, together with all connections to water, sewer, and gas lines.

Premises means a property identifiable by address or legal description, including all associated structures.

Public hall means a hall, corridor, or passageway for providing egress from a dwelling unit to a public way.

Rental dwelling means a dwelling or portion thereof which is rented or available for rent.

Repair means the construction or renewal of any part of an existing building or its utilities, facilities, or equipment for the purpose of its maintenance.

Rodent harborage means a place where rodents commonly live, nest, or establish their habitat.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking and eating purposes.

Safety means the condition of being reasonably free from danger and hazards which may cause accidents or disease.

Substandard dwelling means any dwelling which does not conform to the minimum standards established by city ordinances.

Supplied means paid for, furnished by, provided by, or under the control of the owner, operator, or agent of a dwelling.

- (b) *Meaning of certain words.* Whenever the words "dwelling," "dwelling unit," "premises," or "structure" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

Cross reference--Definitions generally, § 1-2.

Sections 18-63--18-80.

Reserved.

CHAPTER 18; BUILDING AND BUILDING INSPECTIONS

ARTICLE III. Housing Standards

DIVISION 2. Administration and Enforcement

*Cross reference--Administration, ch. 2.

Subdivision I. In General

Section 18-81. Application, Administration and Enforcement.

The application, administration, and enforcement of the building code shall be in accordance with Minnesota State Building code. The building code enforcement agency for the City of Anoka is the Community Development Department and the code shall be enforced by the Minnesota Certified Building Official designated by the City to administer the code.

Section 18-82. Inspection access.

If any owner, occupant, or other person in charge of a dwelling, dwelling unit, rooming unit, or of a multiple dwelling fails or refuses to permit free access and entry to the structure or premises under his control, or any part thereof for purpose of an inspection authorized by this article, the building official may petition the court for an order for such inspection.

Section 18-83. Unfit for human habitation.

- (a) Any dwelling, dwelling unit, or rooming unit or portion thereof which is damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent infested, or which lacks provision for basic illumination, ventilation, or sanitation facilities to the extent that the defects create a hazard to the health, safety, or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any dwelling, dwelling unit, or rooming unit has been declared unfit, the building official shall order the dwelling, dwelling unit, or rooming unit vacated within a reasonable time and shall post a placard on the dwelling, dwelling unit, or rooming unit indicating that it is unfit for human habitation, and any operating license previously issued for such dwelling shall be revoked.
- (b) It shall be unlawful for such dwelling, dwelling unit, or rooming unit, or portion thereof, to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the building official. No person other than the building official shall deface or remove the declaration placard from any such dwelling unit.
- (c) The owner of any dwelling, dwelling unit, or rooming unit which has been declared unfit for human habitation or which is otherwise vacant for a period of 60 days or more immediately shall make the dwelling, dwelling unit, or rooming unit safe and secure so that it is not hazardous to the health, safety, and welfare of the public and does not constitute a public nuisance. Any vacant dwelling open at doors, windows, or wall opening, if unguarded, shall be deemed to be a hazard to the health, safety, and welfare of the public and is a public nuisance within the meaning of this article.

Section 18-84--18-100. Reserved.

CHAPTER 18; BUILDING AND BUILDING INSPECTIONS

ARTICLE III. Housing Standards

DIVISION 2. Administration and Enforcement

*Cross reference--Administration, ch. 2.

Subdivision II. Compliance Orders

Section 18-101. Compliance order.

Whenever the building official determines that any dwelling, dwelling unit, or rooming unit, or portion thereof, is in violation of this article or any other ordinance, he may issue a compliance order setting forth the violations of this article or other ordinance and ordering the owner, occupant, operator, or agent to correct such violations. The compliance order shall:

- (a) Be in writing;
- (b) Describe the location and nature of the violations of this article;
- (c) Establish a reasonable time frame, not to exceed 30 days, to correct such violation;
- (d) Notify the owner of his appeal recourse; and
- (e) Be served upon the owner, operator, or occupant, personally, by sending a copy by certified mail to his last known address, or by posting a copy at the main entrance to the building and publishing it four times in a legal newspaper in the county.

Section 18-102. Appeals.

- (a) 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 article, or upon a misstatement or mistake of fact, such person may appeal the compliance order to the city council. Such appeals must be in writing, must specify the grounds for the appeal, and must be accompanied by a filing fee as determined by council resolution with the building official 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 stay would cause imminent peril to life, health, or property.
- (b) Upon at least five business days' notice to the appellant of the time and place for hearing the appeal and within 30 days after appeal is filed, the city council shall hold a hearing thereon at which the city council shall modify or affirm the order in whole or in part.

Section 18-103. Restrictions or 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, or lease, or otherwise dispose thereof to another person until the provisions of the compliance order have been complied with, unless such owner shall furnish to grantee, lessee, or mortgagee a true copy of any notice of violation or compliance order and shall obtain and possess a receipt of acknowledgment. Anyone with an interest in the dwelling, dwelling unit, or rooming unit who has received notice of the

existence of a compliance order shall be bound by compliance order without further service of notice upon him and shall be liable for all penalties and procedures provided by this article.

Section 18-104.

Execution of compliance orders by public authority.

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 criminal penalty established hereunder notwithstanding, the city council may by resolution cause the cited deficiency to be remedied as set forth in the compliance order. The cost of such remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by Minn. Stats. ch. 429, for any of the reasons set forth in Minn. Stats. § 429.101, subd. 1, and specifically for the removal and elimination of public health or safety hazards from private property, but the assessment shall be payable in a single installment. It is the intent of this section to authorize the city to utilize Minn. Stats. § 429.101 to promote the public's health, safety, and general welfare.

Section 18-105.

Penalties.

Any person who fails to comply with a compliance order after a right of appeal has expired and any person who fails to comply with a modified compliance order within the time set therein, upon conviction thereof, shall be guilty of a misdemeanor.

Sections 18-106--18-120.

Reserved.

CHAPTER 18; BUILDING AND BUILDING INSPECTIONS

ARTICLE III. Housing Standards

DIVISION 3. Minimum Standards

Section 18-121. General requirements.

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or rooming unit for the purpose of living therein which does not comply with the following requirements.

- (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 structural deterioration or any other condition which might admit rain or dampness to the interior portion of the walls or to the interior spaces of the dwelling. The roof shall be tight and have no defects which admit rain and roof drainage and shall be adequate to prevent rainwater from causing dampness in the walls. All exterior surfaces, other than decay resistant materials, shall be protected from the elements and decay by paint or other protective covering or treatment. If the exterior surface is unpainted or lacks protective coating or is determined by the building official to be deteriorated, the surface shall have a protective covering applied. If the exterior surface of the pointing of any brick, block, or stonewall is loose or has fallen out, the surface shall be repaired.
- (b) *Windows, doors, and screens.* Every window, exterior door, and hatchway shall be substantially tight and shall be kept in 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, vermin and rodents from entering the building.
- (c) *Floors, interior walls, and ceilings.* Every floor, interior wall, and ceiling shall be 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 rotting flooring materials. Every interior wall and ceiling shall be maintained in a tight waterproof condition. Toxic paints or materials with a lasting toxic effect shall not be used. Every toilet room and bathroom floor surface shall be capable of being easily maintained.
- (d) *Rodent proof.* Buildings found to be rodent infested shall be made rodent resistant. All opening in the exterior walls, foundations, basements, ground, or first floors, and roofs which have one-quarter-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 on the premises and all fences 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. Materials, other than decay resistant varieties, shall be protected against decay by use of paint or other preservatives.

- (f) *Accessory structure maintenance.* Accessory structures shall be structurally sound and be maintained in good repair. 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, porch and balcony, and appurtenance thereto shall be safe to use and capable of supporting normal structural loads.
- (h) *Facilities to function.* All equipment or utilities required under city ordinances and every chimney and flue shall function effectively in a safe and working condition.
- (i) *Grading and drainage.* Every yard, court, or passageway on the premises on which a dwelling stands shall be graded and drained so as to be free of standing water that constitutes a detriment to health and safety.
- (j) *Yard cover.* Every yard of a premises on which a dwelling stands shall be maintained to prevent dust and erosion.

Section 18-122.

Responsibilities of owners and occupants.

No owner or other person shall occupy or let to another person any dwelling, dwelling unit, or rooming unit unless it and the premises are fit for human occupancy and comply with all applicable legal requirements of the state and the city as set forth specifically in the following subsections.

- (a) *Maintenance of shared or public areas.* Every owner of a dwelling containing two or more dwelling units shall maintain or shall provide for maintenance of the shared or public areas of the dwelling and premises thereof.
- (b) *Housekeeping of occupied areas.* Every occupant of a dwelling, dwelling unit, or rooming unit shall properly housekeep that part of the dwelling, dwelling unit, and premises thereof that he occupies and controls.
- (c) *Storage and disposal of refuse.* Every occupant of a dwelling, dwelling unit, or rooming unit shall store and dispose of all his refuse and garbage and any other organic waste which might provide food for insects and/or rodents as required by chapter 66, article III.
- (d) *Responsibility for storage and disposal of garbage and refuse.* Every owner of a multiple-family dwelling shall supply facilities for the storage and/or disposal of refuse, garbage, and recycling materials. All garbage, waste material, debris, and recyclables shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. Refuse enclosures shall provide screening of containers and have a concrete floor base. Gates may not be required if properly oriented on the site. Design of such facilities shall be reviewed/approved by city staff prior to issuance of a building permit. Each owner of a multiple-family dwelling existing on or before April 8, 1994, shall make such improvements at such time as a building permit may be taken for remodeling or other improvements costing more than \$5,000.00. In the case of single-family and duplex dwellings, it shall be the responsibility of the occupant to furnish such facilities as prescribed by city ordinance.
- (e) *Responsibility for storm and screen doors and windows.* The owner of a rental dwelling unit shall be responsible for providing, maintaining and hanging all screen and storm doors and storm windows whenever storm and screen doors and windows are required under the provisions of this article.

- (f) *Responsibility for pest extermination.* Every occupant of a single-family dwelling shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit in a building containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested, except when infestation is caused by the failure of the owner to maintain a dwelling in a reasonably rodent proof condition; then, extermination shall be the responsibility of the owner. When infestation exists in two or more of the dwelling units in any building or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (g) *Rodent harborage prohibited in occupied areas.* No occupant of a dwelling shall accumulate boxes, firewood, lumber, scrap metal, or any other similar materials in such a manner that may provide rodent harborage in or about any dwelling. Outside stored materials shall be stacked neatly in piles at least four inches off bare soil or ground.
- (h) *Rodent harborage prohibited in public areas.* No owner or occupant of a dwelling shall accumulate or permit the accumulation of boxes, lumber, scrap metal, or any other similar materials in such a manner that may provide rodent harborage in or about shared or public areas of a dwelling or premises. Materials stored outside by the owner or permitted to be stored by the owner shall be stacked neatly in piles at least four inches above bare soil or ground.
- (i) *Prevention of food for rodents.* No owner or occupant of a dwelling unit shall store, place, or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.
- (j) *Maintenance of plumbing fixtures and facilities.* The owner of a dwelling unit shall maintain all supplied plumbing fixtures and facilities therein in good working order.
- (k) *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 70 degrees Fahrenheit or such lesser temperature required by government authority shall be maintained at floor level, when the outdoor temperature is between 20 degrees below zero and 60 degrees above zero Fahrenheit.
- (l) *Removal of snow and ice.* The owner of any rental dwelling shall be responsible for the removal of snow and ice from parking lots and/or driveways, steps, and walkways on the premises. Outside the central business district, which is governed by section 50-31, individual snowfalls of three inches or more or successive snowfall accumulations to a depth of three inches shall be removed from walkways and steps within 48 hours after cessation of the snowfall.
- (m) *Minimum exterior lighting.* The owner of a rental dwelling or dwellings shall be responsible to provide and maintain effective illumination in all exterior parking areas and walkways.
- (n) *Maintenance of driveway and parking areas.* The owner of a multiple-family dwelling or dwellings shall be responsible to provide and maintain in good condition paved and delineated parking areas and driveways for tenants. Each driveway and parking area on any multiple-family property existing on or before April 8, 1994, shall be paved with asphalt, concrete, brick, or similar dust-free surface at such time as a building permit may be taken for either remodeling or improvements costing more than \$5,000.00.

Section 18-123.

Minimum standards for basic equipment and facilities.

No person shall rent or let to another for occupancy any dwelling or dwelling unit for the purposes of living, sleeping, cooking, and eating therein which does not provide the following:

- (a) *Kitchen sink.* A 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 per chapter 66 of this Code.
- (b) *Food storage.* 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. The cabinets and/or shelves and counter or table shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.
- (c) *Stove and refrigerator.* A stove for cooking food and a refrigerator for the safe storage of food at or below 40 degrees Fahrenheit, which are properly installed with all necessary connections for safe, sanitary, and efficient operation. Such stove and refrigerator need not be installed when a dwelling unit is not occupied or when the occupant is expected to provide a stove or refrigerator on occupancy, in which case sufficient space and adequate connections for the installation and operation of the stove and refrigerator must be provided.
- (d) *Toilet facilities.* Within every dwelling unit there shall be a nonhabitable room which is equipped with a flush water closet in compliance with the state plumbing code. Such room shall have an entrance door which affords privacy. The 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 all shall be connected to a sewer system in compliance with chapter 66 of this Code.
- (e) *Lavatory sink.* Within every dwelling unit there shall be a lavatory sink. The sink may be in the same room as the flush water closet, but if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room in which the water closet is located. The lavatory sink shall be in good working condition and shall be properly connected to an approved water system and shall provide at all times an adequate amount of heated and unheated running water under pressure and shall be connected to a sewer system which complies with chapter 66 of this Code.
- (f) *Bathtub or shower.* Within every dwelling unit there shall be a nonhabitable room which is equipped with a bathtub or shower in good working condition. Such room shall have an entrance door which affords privacy. Such bathtub or shower may be in the same room as the flush water closet, or in another room, and all 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 a sewer system which complies with chapter 66 of this Code.

Section 18-124.

Stairways, porches, and balconies.

The owner shall keep every stairway, inside or outside of a dwelling, and every porch or balcony shall be kept in safe condition and sound repair, including but not limited to the following: stairs and handrails shall conform to the city building code standards; every porch, balcony, or deck which is 30 inches or more above grade shall have a guardrail that conforms to the state building code standards; every handrail and guardrail 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 hazard; no flight of stairs shall have rotting, loose, or deteriorating support; excepting spiral and winding stairways, the treads and risers of every flight of stairs shall be essentially uniform in width and height; stairways shall be capable of supporting a live load of 100 pounds per square foot of horizontal projection.

Section 18-125.

Access to dwelling units.

Access to or egress from each dwelling unit shall be provided without passing through any other dwelling unit.

Section 18-126.

Door locks.

No owner shall let or rent to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling or dwelling units are equipped with safe, functioning locking devices. Rental dwellings shall be furnished with door locks as follows:

- (a) *Building access.* For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multiple-family dwellings with common areas, an approved security system shall be maintained for each multiple-family building to control access. The security system shall consist of locking building entrance or foyer doors, and locked door leading from hallways into individual dwelling units. Dead-latch type door locks shall be provided with releasable lever knobs (or doorknobs) on the inside of building entrance doors and with key cylinders on the outside of the building entrance doors. Building entrance door latches shall be of a type that is permanently locked.
- (b) *Unit access.* Every door that provides ingress or egress for a dwelling unit within a multiple-family building shall be equipped with an approved lock that has a deadlocking bolt that cannot be retracted by end pressure, provided however, that such door shall be openable from the inside without the use of a key or any special knowledge or effort.
- (c) *Existing buildings.* All multiple-family dwellings in existence at the time this ordinance is adopted, which were not previously required to have an approved security system, shall not be subject to the requirements of subsection (1) of this section.

Section 18-127.

Minimum standards for light and ventilation.

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or rooming unit which does not comply the following requirements:

- (a) *Habitable room ventilation.* Except where there is supplied some other device affording ventilation and approved by the building official, every habitable room shall have at least one window facing directly outdoors which can be opened easily. The minimum total of openable window area in every habitable room shall be greater than eight percent of the floor area of the room, with a minimum of eight square feet.
- (b) *Nonhabitable room ventilation.* Every bathroom and water closet compartment, and every laundry and utility room shall be provided with natural ventilation by means of windows, or skylights having an area of not less than three square feet, except that no windows shall be required if such rooms are equipped with a ventilation system which is approved by the building official.
- (c) *Electric service, outlets, and fixtures.* Every dwelling and rooming unit and all public and common areas shall be supplied with electric service, functioning overcurrent protection devices, electric outlets, and electric fixtures which are properly installed, which shall be maintained in a safe working condition, and shall be connected to a source of electric

power in a manner prescribed by ordinances, rules, and regulations of the city and by the laws of the state. The minimum capacity of such electric service and the minimum number of electric outlets and fixtures shall be as follows:

1. A dwelling containing one or two dwelling units shall have at least the equivalent of 100-ampere, three-wire electric service per dwelling unit.
2. Each dwelling unit shall have at least one branch electric circuit for each 600 square feet of dwelling unit floor area.
3. Every habitable room shall contain one electrical convenience outlet for each 12 lineal feet, or major fraction thereof, measured horizontally around the room at the baseboard line, provided that in each one ceiling-type electric light fixture may be substituted for one of the required electrical convenience outlets.
4. Every water closet compartment, bathroom, kitchen, laundry room, and furnace room shall contain at least one supplied ceiling-type or wall-type electric convenience outlet.
5. Every public hall and public stairway in every multiple dwelling shall be adequately lighted to provide at least ten foot-candles of illumination of all parts thereof at all times by means of properly located electric light fixtures; provided that such electrical lighting may be omitted from sunrise to sunset where there are windows or skylights opening directly to the outside and where the total window or skylight area is at least one-tenth of the combined horizontal area of the floor and stairway of each such public hallway and where such windows or skylight provide adequate natural light to all parts of each public hallway. Every public hall and stairway in dwellings containing two dwelling units shall be supplied with convenient light switches, controlling an adequate lighting system that will provide at least ten foot-candles of illumination on all parts thereof, which may be turned on when needed.
6. A convenient switch or equivalent device for turning on a light in each dwelling unit shall be located near the point of entrance to such unit.

Section 18-128.

Minimal thermal standards.

- (a) No person shall occupy as owner, occupant or let to another for occupancy any dwelling or rooming unit, for the purpose of living therein which does not have heating facilities which are properly installed and maintained in a safe and working condition and which are capable of safely heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein to a temperature of at least 70 degrees Fahrenheit or such lesser temperature required by government authority to be maintained at floor level, when the outdoor temperature is 20 degrees below zero Fahrenheit.
- (b) 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.
- (c) Portable heating equipment employing flame and the use of liquid fuel does not meet the requirement of this section and is prohibited.
- (d) 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.

Section 18-129.

Construction standards.

Every dwelling within the city shall conform to section 18-32, which adopts the Minnesota State Building Code as the building code for the city.

Section 18-130.

Maximum density, minimum space for rental units.

No person shall permit or let to be occupied any rental dwelling 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 rental dwelling or rooming unit shall be determined as follows:
 1. For the first occupant, 150 square feet of habitable 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, in the dwelling or rooming unit.
- (b) *One family per dwelling unit.* Not more than one family, except for temporary guests, shall occupy a dwelling unit.

Section 18-131.

Enforcement and inspection authority.

The building official or his designee shall administer and enforce the provisions of this article. Inspections shall be conducted during reasonable hours and the building official shall present evidence of his official capacity to the owner or occupant in charge of the dwelling or rooming unit. The building official shall keep confidential all evidence, exclusive of the inspection record, which he may discover or obtain in the course of an inspection made pursuant to this section and such evidence shall be considered privileged.

Sections 18-132--18-160.

Reserved.

CHAPTER 18; BUILDINGS AND BUILDING REGULATIONS

ARTICLE IV. Moving of Buildings*

*Cross references--Environment, ch. 30; streets, sidewalks and other public places, ch. 50; moving of buildings, § 74-161.

State law reference--Moving of buildings, Minn. Stats. § 221.81.

DIVISION 1. Generally

Section 18-161. **Definitions.**

For purposes of this article, the following words and phrases shall have the meanings given them by this section.

Building means a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes.

Removal location means any location in the city to which a building may properly be moved and on which such a building may be properly located after such moving under the provision of this article.

Cross reference--Definitions generally, § 1-2.

Section 18-162. **Enforcement of article.**

The city manager, the building official, the police chief and the city engineer shall enforce and carry out the requirements of this article.

Section 18-163. **Building mover's license.**

(a) *Required.* No person shall move, remove, raise or hold up any building within the city without first obtaining a mover's license from the building official. The mover's license fee will be determined by council resolution and must be paid at the time of filing the license application.

(b) *Insurance.* A mover's license will not be issued until the applicant files a liability insurance policy or policies insuring the applicant against liability imposed by the law in the amount of at least \$500,000.00 for a single injury or claim of damage and at least \$1,000,000.00 maximum liability. The policy must provide that it may not be canceled by the insurer except upon notice to the city. In case of cancellation of the insurance, the license will be automatically suspended until the insurance has been replaced.

(c) *Bond or letter of credit.* A mover's license will not be granted until the party applying submits a bond or letter of credit in the sum of \$5,000.00 with good and sufficient sureties to be approved by the city attorney and the city council. The bond or letter of credit shall be conditioned on the premise that the applicant will pay any and all damage which may be caused to any property, either public or private, within the city, and will indemnify and hold harmless the city against all liabilities, judgments, costs, and expenses that accrue against the city as a consequence of granting the license. Such expenses shall include city costs for the services of public utility maintenance personnel necessitated by the moving of any buildings.

- (d) *Term; nontransferable.* Each license issued under this section terminates on January 1 next succeeding the issuance of the permit, unless sooner revoked or forfeited, and shall not be transferable or assignable.
- (e) *Revocation.* A license may be revoked by the building official upon satisfactory proof of any of the following:
 - (1) The licensee has been proven incompetent to properly move the building;
 - (2) The licensee has proceeded with any work in a manner that endangers people or property;
 - (3) The licensee has been convicted for failure to comply with this section or related ordinances; and/or
 - (4) For good cause.

Section 18-164.

Removal of wires.

The person owning, operating, or controlling overhead electrical or other wires shall be responsible to remove or displace the wires, as may be required for the removal of a building authorized by a moving permit under this article.

Section 18-165--18-180.

Reserved.

CHAPTER 18; BUILDINGS AND BUILDING REGULATIONS

ARTICLE IV. Moving of Buildings.

DIVISION 2. Moving Permit.

Section 18-181. **Required.**

In each and every instance before raising, holding up, or moving any building, the licensed mover shall obtain a moving permit from the building official.

Section 18-182. **Application information.**

An application for such moving permit shall designate the origin and destination of such building, the route over which it is to be moved, and shall state the time in which the moving of such building will be completed.

Section 18-183. **Issuance of moving permit.**

No permit to move a building shall be issued unless and until the following conditions are fully complied with and approved by the building official:

- (a) A conditional use permit has been granted for the property to which the building will be moved.
- (b) The building to be moved complies in all respects with the building code and other applicable ordinances. The owner of the building to be moved may present to the building official complete and detailed plans showing changes which will be made in order to attain compliance with such provisions. In the event such changes are proposed, a permit authorizing the moving of the building shall not be issued until the owner has agreed in writing to complete the necessary changes within a period of six months, the building official has approved the plans, the building permit fee has been paid, the building permit issued, and a performance bond, letter of credit, or certified check guaranteeing completion of such changes, equal to at least 1.5 times the cost of the proposed estimated work as estimated by the building official, has been posted with the city.
- (c) The application must be accompanied by a moving permit fee. The fee will be computed on the same basis as a building permit fee for new construction and the valuation shall be based on the value of the completed building on the new location. This fee shall apply to all applications for moving permits to locate a building within the city. The fee for a moving permit to a location outside the city shall be established by the city council.

Section 18-184. **Removed building to comply with architecture of neighborhood.**

No permit shall be issued under the provisions of this article unless and until the building official 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.

Section 18-185. **Deposit for expenses of the city.**

Upon the receipt of an application for a moving permit, the building official shall procure an estimate of expenses that will be incurred in removing and replacing any city electric wires, street lamps, or pole lines, or any other property of the city, and any related materials that will be required to move the building through the city. Prior to issuance of the permit, the building official

shall require of the applicant a deposit of a sum of money equal to twice the amount of the estimated expense.

Section 18-186. Liability for expenses, etc., above deposit.

The permittee shall be liable for any expense, damage or costs in excess of deposited amounts or securities. If necessary, the city attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excessive amounts.

Section 18-187. Duties of permittee generally.

Every permittee under this article shall:

- (a) *Use designated streets.* Move a building only over streets designated for such use in the written permit.
- (b) *Notify of revised moving time.* Notify the building official in writing of a desired change in moving date and hours as proposed in the application.
- (c) *Notify of damage.* Notify the building official in writing of any and all damage done to property belonging to the city within 24 hours after the damage or injury has occurred.
- (d) *Display lights.* Cause red lights to be displayed during the nighttime on every side of the building, while standing on a street, in such manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such manner as to protect the public from damage or injury by reason of the removal of the building.
- (e) *Street occupancy period.* Remove the building from the city streets after one day of such occupancy, unless an extension is granted by the building official.
- (f) *Comply with governing law.* Comply with this article, chapter 74 and all other applicable ordinances and laws upon relocating the building in the city.
- (g) *Pay expense of officer.* When the building official has ordered the licensee to obtain the services of a traffic officer to accompany the movement of the building to protect the public from injury, the permittee shall pay the expense of the officer at the rate established by the council for the estimated period required for the moving.
- (h) *Clear old premises.* 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.

Section 18-188. Procedure when original premises left unsafe.

The city shall proceed to do the work necessary to leaving the original premises in a safe and sanitary condition, where permittee does not comply with the requirements of this article and the cost thereof shall be charged against the general deposit.

Sections 18-189--18-210. Reserved.

CHAPTER 18; BUILDINGS AND BUILDING REGULATIONS

ARTICLE V. Swimming Pools

DIVISION 1. Generally

Section 18-211. **Definitions.**

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Portable swimming pool means a rubber or plastic swimming pool which can be erected without permanent support.

Private residential swimming pool means any constructed or assembled swimming pool or portable swimming pool which is used or intended to be used as a swimming pool in connection with group I occupancies as defined in the state building code, and available only to the family of the householder and his guests.

Swimming pool means any structure, basin, chamber or tank constructed or designed to contain an artificial body of water for swimming, diving, relaxation or recreational bathing, and having a depth of two feet or more at any point, and with a surface area exceeding 150 square feet.

Cross reference--Definitions generally, § 1-2.

Section 18-212. **Enforcement officer specified.**

The building official is authorized and directed to administer and enforce the provisions of this article.

Cross reference--Officers and employees, § 2-61 et seq.

Section 18-213. **Design and construction requirements.**

The design and construction of all private residential swimming pools shall comply with the following:

- (a) *Structural design.* The pool structure shall be engineered and designed to withstand the expected forces to which it will be subjected.
- (b) *Overflow and surface design.* The pool and surrounding area shall be constructed and arranged in such a manner that no splash or overflow water shall return to the pool. No surface or roof drainage shall be permitted to enter the pool.
- (c) *Finish.* Pool floor and walls shall have a cleanable, white or similar light-colored and impermeable surface.
- (d) *Handholds.* Handholds shall be provided and shall not be more than nine inches above the normal waterline and shall extend around the entire periphery of the pool.
- (e) *Pool deck.* Unobstructed deck areas not less than 48 inches wide shall be provided to extend entirely around the pool. The deck surface shall have a pitch of at least one-fourth inch to the foot, designed so as to prevent back drainage into the pool. If the deck drains are provided, drain pipe lines shall be at least two inches in diameter and drain openings shall have an open area of at least four times the cross sectional area of the drain pipe.

The deck drain system shall be indirect connection to the recirculation system piping. No deck, other than the ground surface, shall be required for any pool that is totally above ground and which is less than four feet in height.

- (f) *Steps or ladders.* One or more means of egress in the form of steps or ladders shall be provided from any pool having a water depth of 36 inches or more. Treads of steps and ladders shall be equipped with nonslip material.
- (g) *Plumbing.* All supply and waste piping connected to such swimming pool shall be installed in accordance with the state plumbing code.
- (h) *Water supply.* The water supply serving the swimming pool shall be potable water or of a quality otherwise acceptable to the building official. All portions of the water distribution system serving the swimming pool and auxiliary facilities shall be protected against backflow. Water introduced into the pool, either directly or to the recirculation system, shall be supplied through an air gap in accordance with the state plumbing code. When such connections are not possible, the supply shall be protected by a suitable backflow preventer in accordance with the state plumbing code, installed on the discharge side of the last control to the fixture, device or appurtenance.
- (i) *Drainage.* Pools shall be equipped with facilities for completely emptying the pool to the sanitary sewer, or other suitable disposal unit acceptable to the building official. There shall be no direct physical connection between the sewer system and any drain from the swimming pool or recirculation system. Any swimming pool or gutter drain or overflow from the recirculation system when discharged to the sewer system, storm drain, or other approved natural drainage course shall connect through a suitable air gap or air break so as to preclude the possibility of backup of sewer or waste into the swimming pool piping system. The water from the pool shall not be drained on the streets or sidewalk or any other public property or private property not owned by the pool owner.
- (j) *Heaters.* All gas-fired or oil burning swimming pool heaters and builders shall comply with the plumbing code and heating code of the city.

Section 18-214.

Electrical requirements.

- (a) All electrical installations provided for, installed and used in conjunction with a residential swimming pool or portable swimming pool shall conform with the state electrical code.
- (b) The following parts of swimming pools shall not be placed under existing service-drop conductors or any other open overhead wiring; nor shall such wiring be installed above the following:
 - (1) Swimming pool and the area extending ten feet horizontally from the inside of the walls of the pool.
 - (2) Diving structure.
 - (3) Observation stands, towers or platforms.
- (c) All metal fences, enclosures or railings near or adjacent to a private residential swimming pool or portable swimming pool, which might become electrically alive as a result of contact with broken overhead conductors, or from any other cause, shall be effectively grounded.

- (d) Lighting, when used to illuminate any swimming pool, shall be so arranged and shaded as to reflect light away from adjoining premises.

Section 18-215.

Chemical treatment.

Gaseous chlorinating systems shall not be used as a disinfecting method for a private residential swimming pool or portable swimming pool. Below ground pools shall meet the requirements for recirculation, disinfection and water quality maintenance as required for public swimming pools as set forth in the department of health miscellaneous environmental health rules (Minnesota Rules, Part 4717.0100 to 4717.3900).

Section 18-216.

Fences.

Outdoor private residential swimming pools shall be protected by a fence, wall or building or other enclosure or any combination thereof. All fence openings or points of entry into the pool area enclosure shall be equipped with gates. The fence and gates shall be at least four feet in height. 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 and provided with hardware for permanent locking devices. The openings between the bottom of the fence and the ground surface shall not be more than four inches.

Section 18-217.

Approval of other design and equipment.

Any swimming pool, the design and equipment of which incorporates features other than those set forth in this article, shall be subjected to review and approved by the building official in accordance with acceptable standards and in conformance with current public health and safety practices.

Section 18-218.

Location.

No portion of a swimming pool or appurtenances thereto shall be located from the lot line at a distance less than that required for side yard for a one-story principal building, as set forth in the chapter 74.

Section 18-219.

Dangers to life and health prohibited.

No private residential swimming pool or portable swimming pool shall be used, kept, maintained or operated in the city if such use, keeping, maintaining or operating shall be the occasion of any nuisance shall be dangerous to life or detrimental or health.

Sections 18-220--18-235.

Reserved.

CHAPTER 18; BUILDING AND BUILDING REGULATIONS

ARTICLE V. Swimming Pools

DIVISION 2. Permit

Section 18-236. Required.

No person shall construct or erect a private residential swimming pool or reconstruct any such pool or do any alteration, addition, remodeling or repair to such a swimming pool in excess of the value of \$100.00 without first obtaining a permit from the building official. A permit shall be required for the re-erection of any such swimming pool which was once erected with permit or which was in existence at the date of the enactment of this article, and then disassembled, and which is not re-erected in the same location.

Section 18-237. Plans to be submitted.

Plans and specifications and pertinent explanatory data shall be submitted with the application for a permit under this article. No new plan shall be required for the re-erection of a pool according to a plan previously submitted. The plans shall be reviewed relative to design, operation and maintenance insofar as health and safety features are concerned in accordance with the standards prescribed in this article. The plans shall be drawn to scale of not less than one-fourth inch per foot. The plans shall include the following data and such other information as may be reasonably requested by the building official.

- (a) The general layout of the entire building lot on which the pool is to be located, including the distance of the pool from the lot lines, the location of all utilities, and the location of any source of contamination within 50 feet of the pool.
- (b) The dimensions of pool, including the effective length and width of the pool, pool decks and other similar items.
- (c) The source of water supply and method drainage, including all pipes, inlets, outlets and waste and discharge lines.

Section 18-238. Construction in accordance with approved plans; deviations.

Swimming pools, appurtenances, water supply and drainage systems and other features shall be constructed in conformity with the approved plans. If any deviation from such plans is desired, a supplementary plan covering that portion of the work involved shall be filed for approval and shall conform to the provisions of this article.

Section 18-239. Permit fee.

The fee for a permit shall be as established and set forth in the fee schedule established by the city council under subsection 74-37(b).

CHAPTER 20. HERITAGE PRESERVATION REGULATIONS

ARTICLE I. Regulations.

Section 20.1. **Purpose.**

This Ordinance is adopted for the purpose of protecting the historic and aesthetic qualities of the City by preserving, rehabilitating or restoring, when reasonable, buildings or structures which constitute or reflect distinctive features of the architectural or historical resources of the City and thereby promoting the public welfare and preserving the cultural heritage of the City.

Section 20.2. **Definitions.**

- (a) Historically Significant Building or Structure means any building or structure or portion of a building or structure currently on or in the future listed on the National Historic Register or located in a designated local Heritage Preservation District, a local Heritage Preservation Site, or any structure located in the Historic Downtown Core District (as identified in Article II of this chapter) that was constructed in 1935 or prior.
- (b) Commission means the Heritage Preservation Commission.
- (c) Demolition means the complete dismantling, removing, razing or destruction of a building; also, for purposes of this Article, physically removing a building from its original foundation.

Section 20.3. **Permits Required.**

No building or structure may be demolished without obtaining a demolition permit. An application for a demolition permit must be filed with the City Building Official.

For historically significant buildings or structures, the Building Official must forward a copy of each demolition permit application to the Commission for review according to this article.

Any person receiving such a permit may conduct the demolition of the building as authorized under such permit only in compliance with the terms of the permit and only before the permit expires.

Section 20-4. **Demolition Plan Review for Historically Significant Properties.**

- (a) Within thirty (30) days after a determination that the building is historically significant, the applicant for the demolition permit must submit three (3) copies of a demolition plan to the Heritage Preservation Commission staff. The demolition plan shall include the following information:
 - (1) A map showing the location of the building or structure to be demolished on its property and with reference to neighboring properties;
 - (2) A legal description of the property and owner of record;
 - (3) Photographs of all building elevations;

- (4) A description of the building or structure or portion of the building or structure to be demolished;
 - (5) The reason for the proposed demolition and date supporting the reason, including where applicable, data sufficient to establish any economic justification for demolition;
 - (6) Proposed plans and a schedule for reuse of the property on which the building or structure to be demolished is located;
 - (7) Relation of the demolition and future site to the comprehensive plan and zoning requirements;
 - (8) A description of alternatives to demolition;
 - (9) Evidence that the building or structure has been advertised for sale for restoration or reuse and that sale for restoration or reuse is not economically feasible.
 - (10) Any available architectural drawings.
 - (11) A history of the building and date of construction, based on appropriate historical resources, such as deeds, map, etc.
- (b) The Commission shall hold a public hearing on the pending application according to the requirements for public hearings as found in the zoning chapter of the City Code. The Commission shall consider the architectural and historic merit of the building, the effect of demolition on surrounding buildings, and the effect of any new proposed construction on the remainder of the buildings and surrounding buildings.
 - (c) After a public hearing and review of the application material, the Commission shall recommend approval of the demolition permit upon finding that the owner has made a reasonable effort to sell or preserve the structure and there is no feasible alternative to demolition. If the Commission finds that there is a feasible alternative to demolition, the Commission shall recommend denial of the demolition permit.
 - (d) Upon recommendation of the Commission, the City Council shall consider the request and approve or deny the demolition permit. Such action shall take place within sixty (60) days after receipt and acceptance of the information required to be submitted under Section 20-4(a).

Section 20-5.

Emergency Demolition.

If a historically significant building or structure poses an immediate threat to health or safety due to its deteriorated condition, the owner of the building or structure may request issuance of an emergency demolition permit. If the Building Official finds that the condition of the building or structure poses a serious and imminent threat to public health and safety and that there is no reasonable alternative to immediate demolition, the Building Official may issue an emergency demolition permit.

Section 20-6.

Expiration.

Any demolition permit that is issued pursuant to an application subject to this Article shall expire one hundred eighty (180) days after the permit is issued if the work authorized by such permit has not commenced.

Section 20-7.

Waiver.

In cases of hardship, any person aggrieved by the requirements of this Article may apply to the City Council for waiver of all or a portion of the applicable restrictions. A waiver may be granted where the City Council finds substantial hardship caused by the restrictions of this Article and finds the waiver will not unduly affect the purposes for which the Article was enacted.

Section 20-8.

Amendment to this Chapter.

- (a) Request for Amendment. An amendment to this Chapter may be initiated by a City resident, the Heritage Preservation Commission or the City Council.
- (b) Review of Proposed Amendment. Proposed amendments shall be reviewed by the Heritage Preservation Commission prior to presentation to the City Council for final consideration.

Section 20-9.

Injunction.

In addition to any other relief provided by this Ordinance, the City Attorney may apply to a Court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Ordinance. This application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

Section 20-10.

Enforceability and Violations.

Unless expressly provided otherwise, any person or entity violating any provisions of the City Code, including this Chapter, any rule or regulations adopted in pursuance of any such provision, or any other order lawfully enforcing the City Code or this Chapter, may be charged with a petty misdemeanor or misdemeanor. The term "petty misdemeanor and misdemeanor" are defined in Minnesota Statutes Section 609.02, as amended. In addition to seeking prosecution of a violation as a petty misdemeanor or misdemeanor, the City may separately, or in conjunction with the prosecution, bring an action for specific performance to enforce any provisions of the City Code, including this Chapter, any rule or regulation adopted in pursuance of such provision, or any order lawfully enforcing the City Code, including this Chapter.

Sections 20-11 thru 20-39.

Reserved.

CHAPTER 20. HERITAGE PRESERVATION REGULATIONS

ARTICLE II. **Regulations for Historic Downtown Core District.**

Section 20-40. Purpose and Intent.

- (a) Purpose. The purpose of this Article is to protect the integrity and historic turn-of-the-century character of the Historic Downtown Core District.
- (b) Intent. It is intended that the regulations contained in this Article will assist in maintaining the historic character of this district while allowing for normal maintenance and repair of commercial structures.

Section 20-41. Area of Application.

The Historic Downtown Core District, as shown on the map at the end of this Article, is part of the area identified by the Heritage Preservation Commission as Historic District 5. The regulations shall apply to commercial buildings within the bounded area identified as well as both sides of Third Avenue as contained in the Core District.

Section 20-42. Exterior Materials Standards for Construction, Remodeling, Repair and/or Maintenance of Commercial Buildings within the District.

- (a) Infill Buildings. An infill building façade shall be composed of materials that are similar to original adjacent facades. New buildings shall not stand out against other buildings in the district and shall be compatible with the general area. Site plan approvals for new commercial buildings in this district will be reviewed by the Planning Director or their designee for consistency and the preservation guidelines promulgated for Historic District 5.
- (b) Materials. The use of brick, stone, decorative masonry, or other similar materials is required on new or existing building façades that can be viewed from a public street, not including an alley.
- (c) Color texture, and style schemes. All exterior finish colors shall be consistent with the period colors as identified on the color palettes on file with the Planning Department. All exterior textures and styles for existing buildings shall be consistent with the period of construction of the building.
- (d) Repair and Maintenance of Masonry Surfaces. New mortar joints shall match the style, size, composition and color of the original joints.
- (e) Removal and replacement of exterior materials. Where existing exterior materials do not meet requirements of this Article, the same or significantly similar material may be used to replace or repair the façade, except when a total or combination of at least 50% or more of the façade is removed for any reason within an 18 month period, the entire façade must comply with requirements of this Article.

Section 20-43. Approval Process.

- (a) Application. Plans for exterior work on commercial buildings located in this district, including construction renovations, remodeling, alterations, rehabilitation, maintenance, repair and painting, shall be submitted to the Planning Director or the Director's designee for review and approval.

- (b) Appeals. A person may appeal the decision by the Planning Director or the Director's designee and request review by the Heritage Preservation Commission, Planning Commission and City Council. The appeal process shall be as follows:
- (1) An appeal must be submitted in writing to the Planning Department explaining the reasons for the appeal, detail of the proposed material, and any other information deemed pertinent. A fee for said appeal, as established by the City Council, shall also be paid at the time the written appeal is submitted to the Planning Department.
 - (2) The Planning Department shall then present the appeal to the Heritage Preservation Commission who shall hold a public hearing. All property owners within the Historic Downtown Core District shall be notified of the hearing by mail and official notice shall be posted in the City's official newspaper ten (10) days prior to the hearing. The Heritage Preservation Commission shall make a recommendation to the City Council based on the following findings:
 - (a) The proposed design or material is consistent with the purposes of this Article.
 - (b) The proposed design or material would enhance the architectural appearance of the building, and would be equal or superior to designs or materials permitted by this Article.
 - (c) The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding district.
 - (3) The Planning Commission shall make a recommendation to the City Council based on the criteria listed in subpart (b) (2). No public hearing is required by the Planning Commission. The Planning Commission may make their recommendation before or after the public hearing is held by the Heritage Preservation Commission.
 - (4) The City Council shall make a final determination on the appeal based on the criteria listed in subpart (b) (2); recommendation of Heritage Preservation Commission and/or recommendation of the Planning Commission.

Sections 20-44 thru 20-59.

Reserved.

CHAPTER 20. HERITAGE PRESERVATION REGULATIONS

ARTICLE III. Regulations for Heritage Preservation Districts, Sites or Structures.

Section 20-60. Definitions. For the purposes of this Chapter, the following words or phrases are defined as follows. Words not defined in this Chapter shall have the meaning as found in Chapter 74 of the City Code, or if not defined, shall have their common meaning.

City. Means the City of Anoka.

City Register. Means a City maintained listing of City-designated Heritage Preservation District, Sites or Structures.

Commission. Means the City of Anoka Heritage Preservation Commission.

Heritage Preservation District. Means a contiguous collection or group of lands, parcels, sites, structures, buildings or objects that are determined to be historically, culturally, or architecturally significant as a whole and has been designated as a Heritage Preservation District pursuant to this Article.

Heritage Preservation Guidelines. Means the established criteria by which any proposed changes, including architectural or site modifications, are judged for a Heritage Preservation District, site or structure.

Heritage Preservation Site. Means any individual property, parcel, or place that has been determined to be historically, culturally, or architecturally significant and has been designated a Heritage Preservation Site pursuant to this Article.

Heritage Preservation Structure. Means any building, structure, work of art, or other object that has been determined to be historically, culturally, or architecturally significant and has been designated as a Heritage Preservation Structure pursuant to this Article.

National Register of Historic Places. Means the Nation's official list of properties worthy of designation by the United States Department of the Interior, National Park Service.

Property Owner. Means the record owner of real property located in the City of Anoka.

Section 20-61. Purpose and Intent.

The purpose and intent of Heritage Preservation designation is to provide for the preservation of the buildings, lands, sites, and areas or neighborhoods that possess historical, cultural or architectural significance in the City.

Section 20-62. City Designation of a Heritage Preservation Site.

(a) Designation.

- (1) The Commission or any person of voting age may nominate a site of the City Register with the written permission of the Property Owner of the site.
- (2) The Property Owner shall bear the responsibility of assuring the Commission that the designation will not have a detrimental impact upon any person or entity having a financial interest in the site.
- (3) An affirmative vote of a majority of the entire commission is necessary to recommend designation of a site.

- (b) Background Report.
 - (1) Prior to recommending a site for City designation, an investigation and report on the historical and cultural significance of the site shall be completed by City staff and forwarded to the Commission.
 - (2) The report shall contain the legal description of the site and shall note any projected or planned improvements for the site.
- (c) Criteria for Designation. The Commission may recommend designation of a site only when, in its sole discretion, the property meets at least two of the following:
 - (1) The site has character, interest, heritage or cultural characteristics, or value as part of the development of the City;
 - (2) The site was the location of a significant historical event;
 - (3) The site is identified with a person or persons who have significantly contributed to the culture or development of the City;
 - (4) The site's unique location represents an established visual feature of a neighborhood or the community as a whole.
 - (5) The site is identified with the work of a landscape architect whose individual work has influenced the development of the City of Anoka.
 - (6) The site embodies elements of design, materials or craftsmanship that represent architectural innovation.
- (d) Hearing. Upon receipt of the information required in Section 20-62 (a) and (b), the Commission shall hold a public hearing to consider designation. At least ten (10) days prior to the hearing, the City shall (1) publish notice of said hearing in the official newspaper and (2) send a copy of the hearing notice to the Property Owner.
- (e) Recommendation to the City Council. The Commission shall forward a complete report to the City Council, including the Commission's recommendation, the criteria upon which any designation is being considered, the background report, proposed Heritage Preservation guidelines specific to the proposed site and minutes from the hearing.
- (f) City Council Action. The City Council may, by ordinance, designate the site as a Heritage Preservation site or the Council may deny the designation. The City Council shall include written findings in support of their decision.

Section 20-63. City Designation of a Heritage Preservation Structure.

- (a) Designation.
 - (1) The Commission or any person of voting age may nominate a structure to the City Register with the written permission of the Property Owner of the structure.
 - (2) The Property Owner and the owner of the structure shall bear the responsibility of assuring the Commission that the designation will not have a detrimental impact upon any person or entity having a financial interest in the structure.
 - (3) An affirmative vote of a majority of the entire Commission is necessary to recommend designation of a structure.

- (b) Background Report.
 - (1) Prior to recommending a structure for City designation, an investigation and report on the historical, cultural and architectural significance of the structure shall be completed by City staff and forwarded to the Commission.
 - (2) The report shall contain the legal description of the site on which the structure is located and shall note any projected or planned improvements to the structure.
- (c) Criteria for Designation. The Commission may recommend designation of a structure only when, in its sole discretion, the structure meets at least two of the following:
 - (1) The structure embodies a distinguishing characteristic of an architectural type;
 - (2) The structure is identified with the work of an architect or master building whose individual work has influenced the development of the City;
 - (3) The structure embodies elements of architectural design, detail, materials, or craftsmanship that represents significant architectural innovation;
 - (4) The structure was constructed prior to 1930;
 - (5) The structure has character, interest or value as a part of the development, heritage or cultural characteristics of the City of Anoka;
 - (6) The structure was the location of a significant historical event;
 - (7) The structure is identified with a person or persons who significantly contributed to the culture of the development of the City of Anoka; and
 - (8) The structure's unique location or singular physical characteristics represent an established and familiar visual feature of a neighborhood, community or the City as a whole.
- (d) Hearing. Upon receipt of the information required in Section 20-63, the Commission shall hold a public hearing to consider designation. At least ten (10) days prior to the hearing, the City shall (1) publish notice of said hearing in the official newspaper and (2) send a copy of the hearing notice to the Property Owner and owner of the structure.
- (e) Recommendation to the City Council. The Commission shall forward a complete report to the City Council, including the Commission's recommendation, the criteria upon which any designation is being considered, the background report, proposed Heritage Preservation guidelines specific to the proposed structure and minutes from the hearing.
- (f) City Council Action. The City Council may, by ordinance, designate the structure as a Heritage Preservation structure or the Council may deny the designation. The City Council shall include written findings in support of their decision.

Section 20-64. City Designation of a Heritage Preservation District (HPD).

- (a) Establishment of a Heritage Preservation District.
 - (1) Designation of a HPD establishes a special overlay district that will be identified on the City's zoning map.
 - (2) Designation of land as a HPD shall not change or affect, in any way, the uses allowed or the restrictions then or thereafter applicable to the land under any other zoning classification in which the land is then or thereafter located.

- (3) All of the underlying zoning district regulations shall continue to apply to the land within an HPD.
 - (4) Additional restrictions may also apply to land within an HPD as a result of designation.
- (b) Designation. Before land may be considered for designation of an HPD district, the Commission must receive a petition bearing the signatures of a majority of Property Owners within the proposed district.
- (c) Background Report.
- (1) Prior to recommending a district for City designation, an investigation and report on the historical, cultural, and architectural significance of the district shall be completed by City staff and forwarded to the Commission. The report shall provide information on the historical significance of buildings, structures, sites or objects within the proposed district.
 - (2) The report shall recommend the boundaries of the proposed district and shall include the legal descriptions of all properties to be included in the district.
 - (3) All recommendations shall be made in consideration of any master plans, zoning requirements, projected public improvements, and existing or proposed redevelopment applicable to the properties under consideration for designation.
- (d) Criteria for Designation. The Commission may recommend designation of an HPD only when, in its sole discretion, the property or properties within the proposed district meet at least two (2) of the following criteria:
- (1) The district has character, interest or value as a part of the development, heritage, or cultural characteristics of the City;
 - (2) The district's location was a site of a significant historical event;
 - (3) The district is identified with a person or persons who have significantly contributed to the culture or development of the City;
 - (4) The district embodies a distinguishing characteristic of an architectural type;
 - (5) The district is identified with the work of an architect or master builder whose individual work has influenced the development of the City;
 - (6) The district embodies architectural design, detail, materials or craftsmanship that represents significant architectural innovation;
 - (7) The district's unique location or singular physical characteristics represent an established and visual feature of a neighborhood or the City as a whole.
- (e) Hearing. Upon receipt of the information required in Section 20-65, (b) and (c), the Commission shall hold a public hearing to consider designation. At least ten (10) days prior to the hearing, the City shall: (1) publish notice of said hearing in the official newspaper and (2) send a copy of the hearing notice to all of the Property Owners within the proposed district.
- (f) Recommendation to the City Council. The Commission shall forward a complete report to the City Council, including the Commission's recommendation, the criteria upon

which any designation is being considered, the background report, proposed Heritage Preservation guidelines specific to the proposed district and minutes from the hearing.

- (g) City Council Action. The City Council may, by ordinance, designate the proposed site as a Heritage Preservation District or may deny the designation. The City Council shall include written findings in support of their decision.

Section 20-65. Review & Approval.

- (a) Additional Review Required. Review of proposed construction affecting designated sites, structures or districts shall be required in the following situations:
- (1) When proposed work is inconsistent with the approved guidelines for the site, structure or district; or
 - (2) When moving a building into the district.
- (b) Process for Approval. Requests for approval of projects under subsection (a) of this section shall be accompanied by three (3) copies of detailed plans for the proposed construction, including a site plan showing the location of structures on the site and the location of the new construction, building elevations, and design details and materials as necessary to evaluate the request. The application shall be submitted to the appropriate staff who, within fifteen (15) business days of submission, shall determine whether the submission is complete. If incomplete, the applicant will be notified with instructions for completing the application. If complete, staff shall forward the application to the Commission for review, consideration and recommendations to the City Council.

The Building Official shall not issue any permits related to an application for construction within a designated Heritage Preservation District or on a designated site or structure until the request has been approved by the appropriate staff, based on compliance with this Chapter.

- (c) Review Criteria. When considering requests under this Section and in making its recommendations to the City Council, the Commission shall make reasonable attempts to:
- (1) Provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment. If no compatible use can be found, adaptive reuse may be considered in lieu of demolition.
 - (2) Keep the distinguishing original qualities or character of a building, structure or site and its environment.
 - (3) Avoid the removal or alteration of any historic material or distinctive architectural features where possible.
 - (4) Treat distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site with sensitivity. If no discernible architectural style is present, a building exterior may emulate or compliment other prevailing styles in the district.
 - (5) Repair deteriorated architectural features if possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities.
 - (6) Require that surface cleaning of structures be undertaken with the least abrasive means possible. Sandblasting and other cleaning methods that will damage

historic building materials shall not be undertaken absent extreme circumstances and prior City Council approval.

- (7) Permit contemporary designs for alterations and additions to existing properties when such alterations and additions do not destroy historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.
 - (8) Protect the essential form and integrity of the primary structure.
 - (9) Protect and preserve archeological resources affected by, or adjacent to any project.
 - (10) Retain the original exterior walls or surface of buildings and structures to the maximum extent possible. In no case shall more than fifty percent (50%) of the original exterior walls be destroyed, removed or covered.
- (d) Commission Review. The Commission shall determine if the work to be performed would adversely affect the Heritage Preservation District, site or structure based on the criteria set forth in subsection (c) of this Section. The Commission shall make and forward written findings to the City Council in support of their recommendation for either approval or disapproval.
- (e) City Council Action. Upon receipt of a recommendation from the Commission, the City Council shall consider the application at its next available meeting and shall approve or deny the request by resolution. The Council shall make written finding in support of their decision.

Section 20-66. Emergency Repairs. In emergency situations where repair is needed to protect the safety of a structure and its inhabitants, the Building Official, in consultation with other appropriate staff, may, without Commission action, approve the repair of only those items needed to insure safety. If a permit is issued pursuant to this Section, the Building Official shall require that such repairs be made in conformance with the recommended standards of historic preservation as set forth in this Article and adopted Heritage Preservation Guidelines, to the extent possible. In addition, staff shall notify the Commission of such action and specify the facts or conditions constituting the emergency situation.

Section 20-67. Exception. The regulations of this Article do not apply to the Historic Downtown Core District as identified in Article II of this Chapter.

Section 20-68. Penalty for Violations. Any Property Owner, owner, or occupant of any area, place, building, structure, or other object within a locally designated Heritage Preservation District, or a designated site, or of a designated structure, who violates any provision of this Article, shall, upon conviction, be guilty of a misdemeanor. Each day the subject property is in violation of this Article shall constitute a separate violation and may be punishable as such. The imposition of penalties herein prescribed shall not prevent the City from taking appropriate action or proceeding to prevent unlawful alteration of a building, structure, site or district. Such action may include any civil remedy including injunction, restraining order, declaratory action, civil enforcement action, or nuisance abatement action under State Law or City ordinance.

Section 20-69. City Register. The office of the City Clerk shall record the legal descriptions of all designated sites, structures or districts within the City.

Section 20-70. District Court Appeals. Any Property Owner or owner of a structure aggrieved by a decision of the City Council under this Article may file an appeal with the Anoka County District Court. No appeal shall be effective unless it is served within sixty (60) days from the decision of the City Council.

Section 20-71. Incentives and Tools. In furtherance of the City's Heritage Preservation goals, the Commission may"

- (a) Develop and promote the use of incentives and/or tools to encourage preservation, i.e. façade easements.
- (b) Work with the Economic Development Commission and the Housing & Redevelopment Authority to identify programs and incentives for City-designated heritage preservation properties.
- (c) Encourage property owners to consider listing their property on the National Register of Historic Places.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE I. **Courtesy Benches**

Section 22-1. License Required.

No person shall place a courtesy bench bearing advertisements upon a public sidewalk without an annual license issued by the City Clerk. Such a license shall be issued upon a showing that the placement of the courtesy bench will not endanger public safety. A fee in the amount established by the Council shall be paid to the city prior to the issuance of the license.

Sections 22-2 thru 22-30. Reserved.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE II. Arborists/Tree Care

Section 22-31. License required.

It shall be unlawful for any individual, partnership or corporation to conduct as a business, the cutting, trimming, pruning, removal, spraying or otherwise treating of trees in the City without first having secured a license from the City to conduct such a business.

Section 22-32. Application.

An application for a license under this ordinance shall be available at the office of the City Clerk. The application for a license shall be made on a form by the City.

Section 22-33. Liability Insurance.

No license or renewal shall be granted, nor shall the same be effective until the applicant files with the City Clerk, proof of a public liability insurance policy covering all operations of such applicant under this ordinance, during the full term of the license, for the sum of:

- (a) One hundred thousand and 00-100 (\$100,000) – against liability for bodily injuries or death for each person; and
- (b) Three hundred thousand and 00-100 (\$300,000) – against liability for bodily injuries or death to more than one person from one accident; and
- (c) One hundred thousand and 00-100 (\$100,000) – against liability for damage or destruction of property.

The City shall be named and the insurance provided shall include the City as an additional party insured. Said policy shall provide that it may not be cancelled by the insurer except after ten (10) days written notice to the City, and if such insurance is so cancelled and the licensee shall fail to replace the same with another policy conforming to the provisions of this ordinance, said license shall be automatically suspended until such insurance has been replaced.

Section 22-34. Bond.

No license shall be issued until the applicant provides a twenty-five hundred dollar (\$2,500) bond to the City, which shall be approved in a form as to security by the City.

Section 22-35. Chemical Treatment Requirements.

Applicants who propose to use chemical substances in any activity related to treatment or disease control of trees and shrubs, shall file with the City Clerk proof that the applicant or an employee of the applicant administering such treatment has been certified by the Agronomy Division of the Minnesota Department of Agriculture as a "Commercial Pesticide Applicator". Such certification shall include knowledge of tree disease chemical treatment.

Section 22-36. Fee(s).

The annual license fee shall be determined by the City Council.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE III.

Pawnshop & Pawnbrokers*

***State law references--**Pawnbrokers, Minn. Stats. ch. 325J; local regulation of pawnbrokers, Minn. Stats. §§ 325J.02(b), 325J.13.

Section 22-81.

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pawnbroker. Means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. The following are not pawnbrokers:

- (a) Any bank regulated by the state, the comptroller of the currency of the United States, the Federal Deposit Insurance Corporation, the board of governors of the Federal Reserve System, or any other federal or state authority and their affiliates;
- (b) Any bank or savings association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any successor to it and all affiliates of those banks and savings associations;
- (c) Any state or federally chartered credit union; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the state department of commerce.

Pawnshop. Means the location at which or premises in which a pawnbroker regularly conducts business.

Pawn transaction. Means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker/pawnshop and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Person. Means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.

Pledged goods. Means tangible personal property other than chooses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker/pawnshop in connection with a pawn transaction.

State law reference--Similar provisions, Minn. Stats. § 325J.01.

Section 22-82. Hours of operation.

No property shall be received or sold as a pledge or purchase by any pawnbroker/pawnshop before 7:00 a.m., or after 9:00 p.m. on any day. Further, no pawnbroker/pawnshop shall be open for business on Thanksgiving Day or Christmas Day.

Section 22-83. Records required.

- (a) Every pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three (3) years. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall upon request provide to the Anoka Police Department a complete and accurate record of pawn transactions. If the pawnbroker provides the records in a computerized format, they must be provided in the interchange file specification, as defined in Minnesota Statute 325J.05 (c).
- (b) Each licensee under this article shall keep a record of each transaction made in the course of his business. Such records shall be in a form prescribed by the city clerk and shall, in all instances, be legibly made in ink and be in the English language. The records so kept shall include the following information about each transaction:
 - (1) The full name, home address, home telephone number and business telephone number, and date of birth of the person pledging or selling the item.
 - (2) The time and date of the transaction.
 - (3) A complete and accurate description of the item pledged or sold, including, but not limited to, all identifying numbers and identifying marks, and model and serial numbers if indicated on them.
 - (4) A physical description of the person pawning or selling the item, which may include:
 - a. Race;
 - b. Sex;
 - c. Height;
 - d. Weight;
 - e. Color of eyes;
 - f. Color of hair;
 - g. Other physical characteristics.
 - (5) The amount of money paid or loaned for the item.
 - (6) The signature of the person pledging or selling the item.
 - (7) The identification number from any of the following forms of identification of the seller or pledgor:
 - a. Current valid driver's license containing a picture issued by a province of Canada or a state;
 - b. Current valid photo identification card issued by a province of Canada or a state;
 - c. The identification information from the current valid driver's license or current valid photo identification card must either be stamped or photocopied by the pawnbroker and the actual identification must be displayed to the pawnbroker at the time of the transaction.
 - (8) The maturity date of the pawn transaction and the amount due.
 - (9) The monthly and annual interest rates, including all pawn fees and charges.

- (10) Any other information the police chief shall require.
- (11) A color photograph or color video recording of:
 - a. Each customer involved in a billable transaction.
 - b. Each item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.
 - c. If a photograph is taken, it must be at least two inches by two inches and maintained in such a manner that the photograph can be readily matched and correlated to all other records of the transaction. Such photograph must be available to the chief of police or his designee upon request. The photograph must include an identifiable front facial close-up of the person and items photographed must be accurately depicted.

State law references--Entries on pawn tickets, Minn. Stats. § 325J.04, subd. 1; retention of records, Minn. Stats. § 325J.05(b).

Section 22-84. Reports to police.

- (a) Notwithstanding any other ordinance, State Statute, rule, regulation, or Minnesota Statute 352J.13, Pawnbrokers must provide to the Police Department the information required in this Article for all reportable transactions. The pawnbroker must display a sign of sufficient size, and in a conspicuous place on the premises, so as to inform all patrons that transactions are reported to the Police Department on a daily basis. Pawnbrokers must submit every reportable transaction to the Police Department daily as follows:
 - (1) Pawnbrokers must provide to the Police Department the information as required in this Article, (Section 22-83), for al reportable transactions, by transferring it from their computer to the Police Department via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the Police Department.
 - (2) If a pawnbroker who has consistently report via modem is unable to successfully transfer the required reports by modem, the pawnbroker must provide the Police Department printed copies of all reportable transactions for that day by 12:00 noon the next business day, in writing, on forms approved by the Police Department.
 - (3) All records required by this Article shall be kept at the licensee's place of business for three (3) years and shall be available for Police inspection at any reasonable time.

Section 22-85. Billable transaction fees.

In addition to an annual license fee, every licensee shall pay a billable transaction fee for each transaction in an amount set by the Council. The billable transaction fee shall reflect the cost of processing transaction information and other regulatory expenses. The billable transaction fee shall be billed monthly and is due and payable within 30 days of billing. Failure to timely pay the billable transaction fee shall constitute a violation of this article and shall constitute grounds for suspension or revocation of license.

Section 22-86. Verification of identification of property.

All employees of a pawnshop shall verify the identification information from any pawned property by personal inspection of the property to determine any serial numbers or other identification information on the property.

Section 22-87. Printed pawn ticket.

The following shall be printed on all pawn tickets:

- (a) The statement that "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than 60 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods."
- (b) The statement that "The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item."
- (c) The statement that "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record."
- (d) A blank line for the pledgor's signature.

State law reference--Similar provisions, Minn. Stats. § 325J.04, subd. 2.

Section 22-88. Holding of property.

When the Chief of Police, or any member of the police force designated by the Chief of Police, notifies any pawnbroker not to sell any property received on deposit or purchased by him, or not to permit the same to be redeemed, the pawnbroker shall not sell nor permit such property to be redeemed until such property is released in writing by the Chief of Police, or their designee.

A copy of the records required by this Chapter must be made available to the Chief f Police, or their designee, upon written request of the Police Chief or their designee.

The following hold limits are placed on personal property deposited with or purchased by any licensee under this Chapter:

Buys: thirty (30) days after a copy of the records required by this Chapter have been made available to the Chief of Police, or his designee, except upon written permission of the Chief of Police or his designee.

Pawns: Sixty (60) days after a copy of the records required by this Chapter have been made available to the Chief of Police, or his designee, except upon written permission of the Chief of Police or his designee.

State law reference--Similar provisions, Minn. Stats. § 325J.06.

Section 22-89. Redemption.

Any person who pawns an item shall have at least 30 days to redeem the item before it may be sold. Only the person who pawned the property and displayed identification to the pawnbroker or any person with the written consent of the person who pawned the property shall redeem the pawned property.

Section 22-90. Effect of non-redemption.

- (a) A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn transaction, renewal, or extension shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.
- (b) The pawnbroker's right, title, and interest in the pledged goods under subsection (a) of this section is qualified only by the pledgor's right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up to the date of redemption.
- (c) A pawn transaction that involves holding only the title to property is subject to Minn. Stats. Chs. 168A or 336.

State law reference--Similar provisions, Minn. Stats. § 325J.06.

Section 22-91. Permitted charges.

- (a) A pawnbroker may contract for and receive a pawnshop charge not to exceed three percent per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed \$20.00 if the property is not in the possession of the pawnbroker.
- (b) The pawnshop charge allowed under subsection (a) of this section shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date, the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.
- (c) Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this section.
- (d) Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this section, shall be uncollectible and the pawn transaction shall be void.
- (e) A schedule of charges permitted by this section shall be posted on the pawnshop premises in a place clearly visible to the general public.

State law reference--Similar provisions, Minn. Stats. § 325J.07.

Section 22-92. Prohibited transactions.

No pawnbroker shall knowingly purchase or receive on deposit or pledge anything of value as security for a loan of money from any person under lawful age, nor from intoxicated persons, those of unsound mind, or from any individual with a criminal record relating to a theft-related offense.

State law reference--Transactions with minors, Minn. Stats. § 325J.(5).

Section 22-93. Prohibited acts.

A pawnbroker and any clerk, agent, or employee of a pawnbroker shall not:

- (a) Make any false entry in the records of pawn transactions;

- (b) Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transactions;
- (c) Refuse to allow the chief of police, the attorney general, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties;
- (d) Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this section, or providing for a maturity date less than one month after the date of the pawn transaction;
- (e) Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in this chapter, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to this chapter, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency;
- (f) Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction;
- (g) Sell or otherwise charge for insurance in connection with a pawn transaction; or
- (h) Remove pledged goods from the pawnshop premises or other storage place approved by the City at any time before the expiration of the redemption period pursuant to Minnesota Statute 325J.06. However, (i) a pawnbroker is permitted to return pledged goods to the borrower at any time during the redemption period, (ii) a pawnbroker is permitted to sell the pledged goods or remove the pledged goods from the pawnshop premises or other storage place at any time after the expiration of the redemption period set forth in Minnesota Statutes 325J.06, and (iii) a pawnbroker who purchases goods not involving a pawn transaction is permitted to sell or remove the purchased goods from the pawnshop premises or other storage place thirty-one (31) days or later from the purchase transaction date.
- (i) Fail to maintain a record of each pawn transaction for three (3) years.
- (j) Accept a pledge or purchase from a person under the age of eighteen (18) years.

State law reference--Similar provisions, Minn. Stats. § 325J.08.

Section 22-94. Redemption; risk of loss.

Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement goods acceptable to the pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

State law reference--Similar provisions, Minn. Stats. § 325J.09.

Section 22-95. Motor vehicle title pawn transactions.

- (a) In addition to the other requirements of this article, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:
 - (1) Be licensed as a used motor vehicle dealer under Minn. Stats. § 168.27, and post such license on the pawnshop premises;
 - (2) Verify that there are no liens or encumbrances against the motor vehicle with the department of public safety; and
 - (3) Verify that the pledgor has automobile insurance on the motor vehicle as required by law.
- (b) A pawnbroker may not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.

State law reference--Similar provisions, Minn. Stats. § 325J.095.

Section 22-96. Conduct of persons on licensed premises.

- (a) No person may pawn, pledge, sell, leave, or deposit any article of property of another person or entity, whether with or without their permission, nor shall any person pawn, pledge, sell, leave, or deposit any article of property in which another has a security interest with any licensee.
- (b) No minor may pawn, pledge, sell, leave, or deposit any article of property with any licensee.
- (c) No person may pawn, pledge, sell, leave, or deposit any article of property with any licensee without first having presented a current valid photo driver's license or current valid picture identification card.
- (d) All licensees shall by adequate signage and separate written notice inform persons seeking to pawn, pledge, sell, leave, or deposit articles of property with the licensee of the requirements of this section. For the purpose of this section the term "adequate signage" shall be deemed to mean at least one sign, of not less than four square feet in surface area, comprised of lettering of not less than three-quarters of an inch in height, posted in a conspicuous place on the licensed premises and stating substantially the following:

TO PAWN OR SELL PROPERTY:

YOU MUST BE AT LEAST 18 YEARS OF AGE.
YOU MUST BE THE TRUE OWNER OF THE PROPERTY.
THE PROPERTY MUST BE FREE OF ALL CLAIMS AND LIENS.
YOU MUST PRESENT VALID PHOTO IDENTIFICATION.
VIOLATION OF ANY OF THESE REQUIREMENTS IS A CRIME.

For the purpose of this section the term "separate written notices" shall be deemed to mean either the receipt, or a printed form incorporating a statement to the effect that the person pawning, pledging, selling, leaving, or depositing the article is at least 18 years of age, is the true owner of the article, and that the article is free of all claims and liens; which is acknowledged by way of signature of the person pawning, pledging, selling, leaving, or depositing the article.

- (e) No person seeking to pawn, pledge, sell, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth, nor give a false or out-of-date address of residence or telephone number, nor present a false driver's license or identification card to any licensee.

(f) Violations of this section shall constitute a misdemeanor.

Sections 22-97 thru 22-115. Reserved.

Section 22-116. License Required.

- (a) A person shall not engage in business as a pawnbroker or otherwise portray the person as a pawnbroker unless the person has a valid license authorizing engagement in the business. Any pawn transaction made without benefit of a license is void.
- (b) A separate license is required for each place of business. The city may issue more than one license to a person if that person complies with this article for each license.

State law reference--Similar provisions, Minn. Stats. § 325J.02(b), (c).

Section 22-117. Application procedure.

- (a) Every applicant for a license to maintain, operate, or conduct a pawnbroker shop shall file a completed application with the City upon a form provided by the office of the city clerk and pay a nonrefundable application fee in an amount set by the council. The application, once accepted, shall be investigated by the City. Copies of this application shall be forwarded to such other City departments as the City shall deem necessary for verification and investigation of the facts set forth in the application. A written recommendation to the City Council as to the issuance or non-issuance of the license shall be presented at a regularly scheduled City Council meeting within thirty (30) days of the City's acceptance of the application.
- (b) The completed application form shall contain all information indicated, including, but not limited to, the following:
 - (1) Name, place, date of birth, and street residence of the applicant and any and all managers, employees or agents to be employed at the pawn shop. This information shall be supplemented and updated when a new employee is hired by the pawnshop.
 - (2) The business address and the name and address of the owner of the premises.
 - (3) A statement as to whether the applicant and any employee has ever been convicted of any crimes and, if so, the state and county of conviction, the date of conviction, and the specific crime so convicted.
 - (4) Whether the applicant is a natural person, corporation, or partnership.
 - a. If the applicant is a corporation, the state of the incorporation and the names and addresses of all officers and directors.
 - b. If the applicant is a partnership, the names and addresses of all partners.
 - (5) The name, address and home phone number of the manager or proprietor of the business.

- (c) If the applicant is a natural person, the application shall be signed and sworn to by the person; if a corporation, by an agent authorized to sign; if a partnership, by a partner.
- (d) No person shall make any false statement in the application. The making of any false statement in any application is a misdemeanor, and in addition to all other penalties, the licensee's license may be revoked by the city council for giving any false information on the application.
- (e) A new application fee shall be required whenever there is any change in the facts presented by the application other than date, applicants' home address or building owners' address, or in the case of any license not renewed prior to its' expiration.

Section 22-118.

Bond.

- (a) Each application shall be accompanied by a bond in the amount of \$5,000.00 executed by a corporation authorized to do business in this state and conditioned that in conducting such 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.
- (b) The bond shall be maintained 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 such pawnbroker and shall not be terminable without advance of termination to the city clerk.

Section 22-119.

Licensee eligibility.

- (a) To be eligible for or to maintain a pawnbroker license, a person must operate lawfully and fairly within the purposes of this article and:
 - (1) May not be a minor at the time that the application for a pawnbroker's license is filed;
 - (2) May not have been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stats. § 364.03, subd. 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this article as prescribed by Minn. Stats. § 364.03, subd. 3; and
 - (3) Must be of good moral character or repute.
- (b) Any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license and the new owner must satisfy all current eligibility requirements.

Section 22-120.

Compliance with zoning ordinance.

No pawnbroker license shall be granted for a location where a pawnshop would not be allowed under City Zoning Regulations or Minnesota Statute.

State law reference--Similar provisions, Minn. Stats. § 325J.03.

- Section 22-121.** **Number of licenses.**
No more than two pawnbroker licenses shall be issued by the city at any time and priority shall be given to qualified applicants for renewal of existing licenses.
- Section 22-122.** **Annual fee.**
The annual fee to be paid to the city for the license required by this Article shall be as established by the council.
- Section 22-123.** **Transfer.**
A license under this division shall authorize the licensee to carry on its business only at the permanent place of business designated in the license. No license may be transferred to a different location or a different licensee.
- Section 22-124.** **Continuing effect of license.**
Each license shall remain in full force and effect until surrendered, suspended, revoked, or expired.
State law reference--Similar provisions, Minn. Stats. § 325J.02(d).
- Section 22-125.** **Expiration.**
All licenses shall expire at the end of each calendar year.
- Section 22-126.** **Pre-existing contracts.**
No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any pledgor.
State law reference--Similar provisions, Minn. Stats. § 325J.02(e).
- Section 22-127.** **Notification to police of expiration, suspension, revocation, etc.**
The police shall be notified by the city of any licensee whose license has expired or been surrendered, suspended, or revoked as provided by this article.
State law reference--Similar provisions, Minn. Stats. § 325J.02(f).
- Section 22-128.** **Denial, suspension, or revocation of license.**
(a) Any license under this article may be denied, suspended, or revoked by the City Council.
(b) Any fee paid to the City for a license will be forfeited to the City upon denial, suspension or revocation of the license.
(c) The City Council may appoint an administrative hearings officer to hear testimony, present findings, conclusions and make recommendations to the City Council regarding the denial, suspension or revocation of a license for the City Council's consideration.
- Section 22-129. Temporary suspension of license.**
(a) The chief of police may temporarily suspend the license of a pawnshop for a period not to exceed five business days for the following reasons:

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- (1) Filing false information in the course of the application.
 - (2) Failure to inform the City of the required information when hiring a new employee.
 - (3) Conviction of any crime by the licensee or employee, of any law relating to theft, damage or trespass to property, sale of a controlled substance or operation of a business.
 - (4) Failure to comply with any provisions of this article.
- (b) Within the then (10) business days, the City Council may conduct a hearing to consider further suspension or revocation of the license.

State law references--Pawnbrokers, Minn. Stats. ch. 325J; local regulation of pawnbrokers, Minn. Stats. §§ 325J.02(a), 325J.13.

Sections 22-130 thru 22-150. Reserved.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE IV. Peddlers, Solicitors and Transient Merchants

State law references--Hawkers, peddlers and transient merchants, Minn. Stats. ch. 329; authority relative to transient commerce, Minn. Stats. §§ 410.33, 412.221, subd. 19, 437.02; municipal regulation of hawkers, peddlers and transient merchants, Minn. Stats. § 329.15.

Section 22-151.

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Peddler. Means any person who goes upon the streets, sidewalks or other property in the City showing goods or merchandise for sale and selling them. The term "peddler" also means any person who travels from place to place within the City carrying or transporting goods or merchandise and selling them.

Non-profit Canvasser/Solicitor. Means any organization, society, association or corporation that solicits, or has solicited in its name, donations of money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations, upon the streets, an office or business building, by house-to-house canvass or in public places for charitable, religious, patriotic philanthropic or other non-profit purpose.

Solicitor. Means any person who goes from residential house to house, business to business, or upon the streets and sidewalks or other public areas for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services, of which he may be carrying or transporting samples, or that may be described in a catalog or flyer, or by any means, and for which delivery or performance shall occur at a later date. 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 described in this definition.

Transient merchant. Means any person, firm or corporation who engages temporarily in the business of selling or delivering goods, wares, or merchandise within the City, and who, in the furtherance of such purposes, hires, leases, uses or occupies any of the following or any portion thereof: building, structure, lot, vacant lot, motor vehicle, trailer, railroad car, or tent.

Section 22-152.

Exemptions.

This article does not apply to the following:

- (a) Vendors of milk, groceries, bakery products, or other perishable commodities or vendors of soft water service or laundry and dry cleaning pick-up and delivery who make an uninvited call upon the occupant of a resident as a preliminary step to the establishment of a regular route service for the sale and delivery of such commodities or the providing of such services to regular customers; or for the sale of goods, merchandise or services to business, commercial, or industrial users at their place of business.

- (b) Sidewalk sales authorized by the City Council.
- (c) Garage sales or rummage sales when conducted in or by a nonprofit institution, or when conducted upon the premises of an owner of the articles being offered for sale provided that such sales do not last longer than 72 hours, and provided that no more than three sales be conducted at any given location within one year.
- (d) Any bona fide auction sale by a City resident.
- (e) Any sale under court order.
- (f) The sale and display of merchandise as allowed by Anoka City Code.
- (g) The sale of regularly published newspapers.

Section 22-153.

Special events.

The following standards shall apply to events as designated by Council Resolution:

- (a) Any peddler or transient merchant license application or solicitor registration, other than a non-profit canvasser/solicitor registration, which is applied for and scheduled to take place during a time which overlaps the days, geographical areas and times of approved special events, as designated by Council resolution, shall require approval by the governing board of the special event.
 - (1) Any previously issued peddler or transient merchant license or solicitor registration other than a non-profit canvasser/solicitor registration for a duration of time which overlaps the days, geographical areas and times of special events, as designated by Council Resolution, shall not be effective for the designated days, areas or times of such events.
- (b) The governing board of the special event may designate where peddlers and transient merchants shall set up their outside booth or sales stand, including those located on private property. This section will apply to the designated areas of events as determined by Council Resolution.
- (c) In addition to the registration requirements of this article, all solicitors, other than non-profit canvassers/solicitors, must have the written consent of the governing board of any special event as determined by City Council Resolution, to conduct regulated activities during the designated times and areas of the special event. The governing board of the special event may regulate the time, place and manner of solicitation activities.
- (d) Any person violating any provision of this section is guilty of a petty misdemeanor and upon conviction shall be subject to the penalties set forth in Minn. Stats. § 609.02, subd. 4a., as amended, and shall be subject to a fine as set forth in the City's Master Fee Schedule. Any subsequent violation of this section shall be a misdemeanor and upon conviction shall be subject to the penalties set forth in Minn. Stats. § 609.02, subd. 3, as amended.

Section 22-154.

Peddlers and solicitors may be prohibited by placard.

Any resident of the City who wishes to exclude peddlers, solicitors or non-profit canvassers/solicitors from premises occupied by the resident may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice: "Peddlers and Solicitors Prohibited," in letters at least one-half inch high. No peddler or

solicitor shall enter in or upon any premises or attempt to enter in or upon any premises where such a placard or sign is placed and maintained. No person other than the person occupying such premises shall remove, injure, or deface such placard or sign.

Section 22-155.

Permission of property owner required.

In addition to all other requirements and prohibitions of this Article, no transient merchant shall sell or offer for sale any goods, wares, or merchandise within the City from a stationary location on public or private property without first obtaining the written consent of the property owner or occupant.

Section 22-156.

Prohibited Conduct.

No peddler, solicitor, non-profit canvasser/solicitor, or transient merchant shall create a public nuisance as that term is defined by State and/or Local Law, nor shall any person engage in business after the hour of 8:00 p.m. or before 9:00 a.m. unless a previous appointment has been made; nor shall any person furnish false information on the application required in Section 22-178; nor shall any such person sell merchandise or services by means of statements which the person making them knows or should know are false or misleading; nor shall any such person violate any provision of Chapter 74. No transient merchant shall occupy any area within a sight triangle at any intersection for the purpose of advertising and/or conducting business.

For purpose of this section, a sight triangle is the area located at the corner of intersecting streets contained by a triangle composed of sides measuring 50 feet in length from the corner along the curb line or edge of the street and the line connecting the non-joining ends of those two sides.

Sections 22-157 thru 22-175. Reserved.

Section 22-176.

License/registration required.

- (a) No peddler or transient merchant shall sell or offer for sale any goods, wares, or merchandise within the City unless a license therefore shall first be secured as provided by this article.
- (b) No person shall conduct business as a peddler, solicitor, or transient merchant within the City limits without first having obtained the appropriate license.
- (c) All For-Profit solicitors shall be required to register with the City. Registration shall be made on a form supplied by the City. A registration processing fee shall be required. Such fee shall be established by the Council to offset administrative costs and the costs of investigations. No additional licensing fee shall be required. The City shall conduct background investigations on all solicitors listed in the application and upon successful investigations, shall issue to the registrant proof of registration, which shall be nontransferable.
- (d) Non-profit Canvasser/Solicitor:
 - 1. Any organization, society, association or corporation desiring to solicit, or have solicited in its name, money, donations of money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations, upon the streets, an office or business building, by house-to-house canvass or in public places for charitable, religious, patriotic philanthropic or other non-

profit purpose shall be exempt from licensing and fees as stated in this Article, provided a registration application in writing on a form furnished by the City is filed, which shall include the following information:

- a. Name and purpose of the cause for which the license is sought.
- b. Names and addresses of the officers and/or directors of the organization.
- c. The period during which the solicitation is to be carried on.
- d. Whether or not any commissions, fees, wages or emoluments are to be expended in connection with such solicitation.
- e. The names and addresses of all persons conducting the canvassing/solicitation.

Local church and school related entities shall be exempt from the registration application of this Section.

2. Upon the foregoing being satisfied, such organization, association or corporation shall furnish all its members, agents or representatives conducting the solicitation, credentials in writing stating the name of the organization, name of agent, and the purpose of the solicitation. Such credentials shall be kept on the person of the members, agents or representatives during the actual solicitation and be presented to anyone requesting to see the same.

Section 22-177.

Group sales.

In the case of group sales where two or more transient merchants are engaged in business at the same time and location, it shall not be necessary for any such transient merchant to obtain a license under this article provided that the sponsor, promoter, or organizer of the group sale has obtained a license as required under this article and has submitted such information for all other transient merchants involved in the group sale as may be required by the City Manager.

Section 22-178.

Application and issuance.

- (a) Application for such license shall be made to the City Clerk on a form supplied by the City. The applicant shall include:
 - (1) The name, address, and date of birth of the applicant and of all persons associated with the license;
 - (2) A photocopy of a current State issued identification, Driver's License or Passport for each individual listed in the application.
 - (3) A brief description of the nature of the business and the goods to be sold;
 - (4) The name, address and phone number of the employer or business, if any;
 - (5) Any felonies or gross misdemeanors, or any crimes of theft, fraud or crimes of physical danger or threat, of which the registrant has been convicted, and the nature of the crime or crimes of which the registrant was convicted and the date and place of each conviction;

- (6) In the case of transient merchants, the place where the business is to be carried on;
- (b) Applications shall be investigated by the City. Upon completion of a successful investigation, a license or proof of registration will be granted by the City to the applicant. Such proof of registration for Peddlers and For-profit Solicitors must be conspicuously worn at all times when peddling and/or soliciting in the City.

Section 22-179.

Denial of license.

- (a) Reasons for Denial.
 - (1) The applicant, or anyone whose activity would be covered by the license, has been convicted of a felony, gross misdemeanor or any crime of theft, fraud or conviction of any crime that may endanger the safety of the public.
 - (2) The applicant has furnished false information on the application.
 - (3) The applicant has previously sold goods in the City without a license if one was required.
 - (4) No transient merchant license shall be issued unless the applicant submits written consent of the property owner, as required under in this Article, along with the license application.
 - (5) No peddler's license shall be issued to peddlers whose sales occur directly from vehicles on any City street outside of residential districts.
 - (6) No transient merchant license shall be issued for sales from any location which does not have sufficient parking for customers or for areas where customers and/or customer parking would interfere with normal traffic flow as determined by the City.
- (b) Appeal of Denial.

In the event of the denial of the application, the applicant shall have the right to appeal such decision to the City Council within ten (10) days after receipt of such denial. The City Council shall consider the appeal by the applicant at a regularly scheduled meeting. The decision of the City Council shall be final.

Section 22-180.

License fees.

Fees for licenses shall be established by the City Council. Events identified by City staff that will require additional police services or Community Service Officers services will be charged a fee as established in the Master Fee Schedule or determined by City Council or staff.

Section 22-181.

Duration of license.

Each license shall be valid only for the period specified in such license.

Section 22-182.

License to be carried or displayed.

All licenses shall be carried by the licensee and the license shall be exhibited to any officer or citizen upon request. If any business is conducted from a stationary location the license shall be conspicuously posted and displayed.

Section 22-183.

License not transferable.

All licenses under this article shall be nontransferable. No refunds shall be made on unused portions of license. Each peddler, solicitor, or transient merchant shall secure a separate license.

Section 22-184.

Revocation of license.

The license issued pursuant to this article may be revoked by the City Council after notice and hearing, for any of the following reasons:

- (a) Any fraud, misrepresentation, or false statement contained in the registration or in the application for license;
- (b) Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares or merchandise;
- (c) Any violations of this article;
- (d) Conviction of the licensee of any crime involving moral turpitude, fraud, or theft;
- (e) Conducting the business licensed under this article in any unlawful manner or in such manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

Sections 22-185.

Suspension.

The City has the right to suspend a license during the pendency of any criminal charges alleging acts of dishonesty, assaultive type behavior, disorderly conduct, or any other violations of State or Local Laws as the City deems reasonable or necessary.

Applicant will be notified of said suspension with the right to petition the City Council for reinstatement. The City Council shall consider the petition for reinstatement at a regularly scheduled meeting. The City Council decision shall be final.

Sections 22-185 thru 22-210. Reserved.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE V. Saunas, Massage Establishments and Adult Uses

Section 22-211.

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult use means the same as the definition given in Adult Use & Establishments section of the City Code.

Employee means any person who renders any service in connection with the operation of the massage business and receives compensation from the operator of the business or patrons.

Massage means any method of treating the superficial parts of a patron for hygiene, exercise, or relaxation purposes by rubbing, stroking, kneading, tapping, pounding, vibrating, or stimulating with the hands or any instrument or by the application of air, liquid, or water baths of any kind whatever.

Massage establishment means any public facility wherein a person may receive from another person a massage for a fee or other consideration.

Massage Therapist means any person who engages in the practice of massage as defined in this section, except when a massage is administered by a licensed physical therapist, nurse, physician, chiropractor, barber, or cosmetologist or is administered by a massage therapist who is working for or is an employee of a medical professional licensed under Minnesota Statutes Chapter 147 or 148, providing such services at the office location of the licensed medical professional, and the massage is part of the professional services ordinarily provided by such licensed persons.

Patron means any person who receives a massage under such circumstances that it is reasonably expected that he will pay money or give any other consideration therefore.

Public steam bath, sauna or public heat bathing room mean any public facility used for the purpose of bathing, reducing, relaxing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent.

Sections 22-212 thru 22-230. Reserved.

Section 22-231.

License Required.

(a) *Business license.* No person, Partnership, Limited Liability Corporation, or Corporation shall engage or carry on a business, a principal part of which is a massage establishment, public steam bath, sauna, public heat bathing room, or adult use without a license issued by the City Council for each and every separate office or place of business operated by such person in the city. The fee for such license shall be non-proratable and nonrefundable and shall be determined by the Council.

(b) *Message therapist license.* No person shall practice massage unless each person has a valid and subsisting massage therapist license issued to him/her by the city council of the city. The fee for such a permit shall be non-proratable and nonrefundable and shall be determined by the Council.

Section 22-232.

Business license application.

- (a) Every applicant for a license required by this chapter shall file an application with the City of Anoka upon a form provided by the office of the city clerk and pay an application fee in the amount determined by the City Council. After Council approval or denial, no application fee shall be refunded. The application, once accepted, shall be referred to the Anoka Police Department for investigation. Copies of this application shall be forwarded to such other city departments as deemed necessary for verification and investigation of the facts set forth in the application. Each application shall contain the following information:
 - (1) A definition of services to be provided, the location, mailing address, and all telephone numbers where the business is to be conducted.
 - (2) The name and residence address of each applicant (hereinafter all provisions which refer to the applicant shall include all partners of a partnership and the officers and managing agent of a corporation).
 - a. If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation.
 - b. If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the business establishment.
 - c. The two previous addresses immediately prior to the present address of the applicant.
 - d. Copy of identification, such as driver's license.
 - e. The sauna, massage, public steam bath, public heat bathing room, adult use, or similar business history and experience of the applicant, and including but not limited to whether or not such applicant is or has previously operated in this or another city or state under license or permit and has had such license or permit denied, revoked, or suspended, and the reason therefore.
 - f. All criminal convictions other than misdemeanor traffic violations of the applicant, including the dates of convictions, nature of the crimes, and places convicted.
 - g. Authorization for the city, its agents, and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.
 - h. Such other identification and information as required by the city necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.
- (b) Upon completion of the above-described application and the furnishing of all of the foregoing information, the city clerk shall accept the application for the necessary investigations. The holder of a business

license shall notify the city clerk of each change in any of the data required to be furnished by this section within ten days after such change occurs.

Section 22-233.

Massage therapist license application.

Application for a massage therapist license shall be made to the city clerk in the same manner as provided for business licenses, accompanied by an application fee which shall be determined by the City Council. Once acted upon by the Council, the application fee is nonrefundable. The application shall contain the following information.

- (a) The business address and all telephone numbers where the massage is to be practiced.
- (b) Name and residence address and all names, nicknames, and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant.
- (c) Copy of identification showing that the applicant is at least 18 years of age and their date of birth.
- (d) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance, except misdemeanor traffic violations.
- (e) A certified copy of a certificate of graduation from a school of massage which is registered with or approved by the State Department of Education or State Department of Higher Education Services, located in the State in which the school operates. Said certificate must indicate successful completion of at least 150 hours of training.
- (f) The massage or similar business history and experience (five years) prior to date of application, including but not limited to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefore.
- (g) A listing of all memberships in local or national massage organizations.
- (h) Authorization for the city, its agents, and employees to obtain information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

Section 22-234.

Conditions governing issuance.

- (a) *Business license applications.*
 - (1) No license shall be issued if the applicant or any of its owners, employees, or agents is a person of bad repute.
 - (2) Licenses shall be issued only if the applicant and all of its owners, employees, and agents are free of convictions for offenses which involve moral turpitude or which relate directly to the person's ability, capacity, or fitness to perform the duties and discharge the responsibilities of the licensed activity.

- (3) Licenses shall be issued only to applicants who have not, within two years prior to the date of application, been denied licensure, or who have not within such period had its license revoked.
 - (4) Licenses shall be issued only to applicants who have fully answered all of the information requested in the application, have paid the full license fee, and have cooperated with the city in review of the application.
 - (5) If the applicant is a natural person, a license shall be granted only if such person is 18 years of age or older.
 - (6) Licenses may be granted only for locations in the general commercial districts of the city or, in the case of adult uses, in the adult use district, and such license will be denied if the granting of the license would be inconsistent with the comprehensive plans of the city or would otherwise have a detrimental effect upon the property or properties in the vicinity.
 - (7) Licenses shall be granted only to businesses which can meet the safety, sanitary and building code requirements of the city.
- (b) *Massage therapist License..*
- (1) Licenses shall be issued only to persons of good repute who have successfully completed at least 150 hours of training in massage from a school of massage which is registered with or approved by the State Department of Education or State Department of Higher Education Services, located in the State in which the school operates.
 - (2) Licenses shall be issued only to persons free of convictions of offenses which involve moral turpitude or which relate directly to the person's ability, capacity, or fitness to perform the duties and discharge the responsibility of the occupation.
 - (3) Licenses shall not be issued to persons who, within one year prior to the date of application, have been denied a permit or who has had his permit revoked in this or any other state.
 - (4) Licenses shall be issued only to persons who have answered fully all of the information requested in the application and have paid the full application fee.
 - (5) Licenses shall be issued only to persons 18 years of age or older.

Section 22-235.

Approval or denial of application.

The City Council shall act to approve or deny an application for an initial or lapsed licensed license under this ordinance within a reasonable period of time and in no event shall the city act to approve or deny such license or permit later than 120 days from the date that the application was accepted by the city clerk. Every license or permit issued pursuant to this ordinance will terminate on December 31, unless renewed, sooner suspended, or revoked.

Section 22-236.

Revocation or suspension.

- (a) *Business license.* A business license under this article may be revoked, suspended, or not renewed by the city council upon a showing that the licensee, its owners, employees, or agents have engaged in any of the following conduct:
- (1) Fraud, deception, or misrepresentation in connection with the securing of the license.
 - (2) Habitual drunkenness or intemperance in the use of drugs, including but not limited to the use of drugs defined in Minn. Stats. § 618.01, barbiturates, hallucinogenic drugs and amphetamines, Benzedrine, Dexedrine or other sedatives, depressants, stimulants, or tranquilizers.
 - (3) Conduct adversely affecting the public health, safety, and welfare of the general public.
 - (4) Engaging in conduct involving moral turpitude.
 - (5) A violation of any provision of this article.
- (b) *Massage Therapist License..* A Massage Therapist License may be revoked or suspended or not renewed by the city council for any of the following:
- (1) Fraud, deception, or misrepresentation in connection with the securing of the permit.
 - (2) Habitual drunkenness or intemperance in the use of drugs, including but not limited to the use of drugs defined in Minn. Stats. § 618.01, barbiturates, hallucinogenic drugs and amphetamines, Benzedrine, Dexedrine or other sedatives, depressants, stimulants, or tranquilizers.
 - (3) Conduct adversely affecting the public health, safety, and welfare of the general public.
 - (4) Engaging in conduct involving moral turpitude.
 - (5) Violating any provisions of this article.

Sections 22-237

Renewal of Business and Therapist Licenses.

Licensees shall submit an application for renewal according to the procedures set forth above. Renewal licenses shall be administratively approved, unless there is an objection or significant concern expressed during the investigation, or if the license has lapsed over thirty (30) days from its expiration date, at which time the renewal application shall be forwarded to the City Council for consideration.

Sections 22-238 thru 22-255. Reserved.

Section 22-256.

Restrictions.

The licensee and the persons in its employment shall comply with all applicable regulations and laws of the city and state relating to safety and morals.

Section 22-257.

Inspection of premises.

The licensee shall permit and allow the inspection of the premises during business hours by all appropriate city employees and agents.

Section 22-258.

Responsible party.

If the licensee is a partnership or corporation, the applicant shall designate a person to be manager and in responsible charge of the operation of the business. Such person shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the city clerk in writing of any such change indicating the name and address of the new manager and the effective date of such change.

Section 22-259.

List of current employees.

The licensee shall furnish the city clerk a list of current employees indicating their names, addresses and which employees, if any, are practicing massage as a part of their duties. The licensee, within ten (10) days, shall notify the city clerk of any change in the list.

Section 22-260.

Hours of operation.

The licensed premises shall not be open for massage nor shall patrons be permitted on the premises for the purpose of massage between the hours of 9:00 p.m. and 9:00 a.m. of the following day.

Section 22-261.

Age restriction.

No person under 18 years of age shall be employed in an establishment requiring a license under the provisions of this article.

Section 22-262.

Business License requirement.

No such business shall employ or use any person as a massage therapist unless such person has a current license as provided by this article.

Section 22-263.

Restrictions upon massage therapists.

- (a) Any massage therapist shall have their license or a true copy thereof displayed in a prominent place at his place of employment. Any massage therapist within the city shall inform the city clerk of any changes in employment or location of employment within the city, or any change in residence address, within 30 days of such change.
- (b) No massage therapist shall perform massage between the hours of 9:00 p.m. and 9:00 a.m. of the following day.

Section 22-264.

Miscellaneous restrictions.

- (a) It shall be unlawful for any employee to place his hands upon the sexual parts of another person.
- (b) It shall be unlawful for any person owning, operating, or managing a business license under this article knowingly to cause, allow, or permit in or about such premises any agent, employee, or any other person under his control or supervision to perform such acts prohibited in subsection (a) of this section.

- (c) It shall be unlawful for any holder of a license under this article to administer massage on an outcall basis. Such persons shall administer massage solely within a business licensed within this article to carry on such massage.
- (d) It shall be unlawful for any massage service to be carried on within any cubical, room, booth, or other area within a massage establishment which is fitted with a door capable of being locked.

Section 22-265.

Alcoholic beverages prohibited.

No person shall sell, give, dispense, provide, or keep or cause to be sold, given, dispensed, provided, or kept any alcoholic beverage on the premises of any massage establishment, public steam bath, sauna, or public heat bathing room licensed under this article.

Section 22-266.

Operating requirements.

- (a) Every portion of the premises of a business licensed under this article including appliances and apparatus shall be kept clean and operated in a sanitary condition.
- (b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- (c) All businesses licensed under this article shall be provided with clean, laundered sheets and towels in a sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

Section 22-267.

Exceptions.

It shall not be required for a massage therapist to obtain a license described in this Article when the therapist is working for or is an employee of a medical professional licensed under Minnesota Statutes and providing such services at the office location of the medical professional.

Sections 22-267 thru 22-290.

Reserved.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE VI.

Tanning Salons

Section 22-291.

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Employee means the person designated by the licensee/permittee for the facility to assist and instruct the public in the correct operation of the tanning facility.

Fee means amount charged to any individual or group of individuals in exchange for use of a tanning facility or facilities whether direct or by virtue of membership or access.

Other compensation means payment or exchange of goods or anything of value for use of the tanning facility or facilities.

Patron means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation or any individual who in exchange for a fee or other compensation is afforded use of a tanning facility as a condition or benefit of membership or access.

Tanning equipment means the sun lamp products and ultra-violet lamps intended to induce sun tanning through the irradiation of any part of the living human body.

Tanning facility means a room or booth, or suite of rooms under one management at one address, which house ultra-violet lamps or products containing such lamps intended for the irradiation of any part of the living human body for cosmetic or non-medical related purposes.

Section 22-292.

Facilities and equipment.

- (a) Users shall, on each visit, be provided, free of charge, with sanitary eyewear that will protect eyes from ultra-violet radiation and allow adequate vision necessary to maintain balance.
- (b) The operator shall inspect the facility to ensure that the floors are dry. Such floors are to be made dry prior to each individual's use.
- (c) The operator shall post signs and supply handouts warning consumers of the potential effects of radiation on persons taking medication and the possible relationship of radiation to skin cancer.
- (d) The operator shall be responsible for manufacturer specified sanitizing procedures for all sun lamp equipment between every use.
- (e) Convenient toilet facilities and dressing rooms shall be provided with all tanning facilities. Toilet facilities shall include a water closet and hand washing sinks. Toilet facilities and dressing rooms shall be clean and in working order at all times.

- (f) All tanning rooms, booths and cubicles or other areas where patrons utilize tanning equipment will be so equipped and constructed so as to provide complete privacy to the patron. No licensee, or employee, shall intentionally view, photograph or videotape any tanning patron while in a tanning room, booth, cubicle or other area, nor shall allow any other person to do so.

Sections 22-293 thru 22-310. **Reserved.**

Section 22-311. **License Required.**

No person, partnership or corporation shall engage or carry on an operation of a tanning facility used by the public for a fee or other compensation without a license issued by the city council for each and every separate office or place of business operated by such person in the city.

Section 22-312. **Application.**

- (a) Every applicant for a license required by this article shall file an application under oath with the city upon a form provided by the office of the city manager, and pay an application fee in the amount determined by the council. No application fee shall be refunded. The application, once accepted, shall be referred to the city building official and city fire marshal for investigation. Copies of the 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 building official and fire marshal shall make a written recommendation to the city council as to the issuance or nonissuance of the license within 30 days. The council may order and conduct such additional investigation as it deems necessary.
- (b) Each application shall include the following information:
- (1) Applicant/owner's full name, date of birth, mailing address and all telephone numbers. The term "applicant" includes all partners of a partnership and the officers and managing agents of the corporation.
 - (2) The name of the tanning facility and a complete description of services to be provided.
 - (3) Copies of identifications, such as driver's license and social security card of applicant/owner.
 - (4) Name, address and date of birth of each employee who will be employed in such establishment.
 - (5) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant/owner.
 - (6) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.
 - (7) Such other identification and information as required by the city necessary to discover the truth of the matters specified in this article as required to be set forth in the application.

- (c) If the owner/operator operates more than one such tanning facility, the owner/operator shall file a separate application and fee for each facility owned or operated. Within 30 days of receipt of such application, the building official and fire marshal shall complete the initial inspection of the premises of such tanning facility and insure that the premises and tanning facility is installed and will be operated in accordance with this article.
- (d) In the event of a change of ownership, the new owner will be required to apply for a license to own and operate such a tanning facility within 30 days after taking possession of the property.

Section 22-313.

Conditions governing issuance.

- (a) No license shall be issued if the applicant or any of its owners, employees or agents has been convicted of a felony.
- (b) No license shall be issued if the applicant or any of its owners, employees or agents has been convicted of any offense which involves moral turpitude or which directly relates to the applicant's ability, capacity or fitness to perform the duties, and discharge the responsibilities of the licensed activities.
- (c) Licenses shall be issued only to applicants who have not, within two years prior to the date of application, been denied licensure or who have not, within such period, had their license revoked.
- (d) Licenses shall be issued only to applicants who have fully answered all the information requested in the application, have paid the full license fee, and have cooperated with the city in review of the application.
- (e) If the applicant is a natural person, the license shall be granted only if such person is 18 years of age or older.
- (f) Licenses may be granted only for locations in such commercial districts in which such conduct is properly zoned pursuant to the provisions of this Code. Licenses shall be granted only to businesses which can meet the safety, sanitary and other building code requirements of the city.

Section 22-314.

License fee.

The fee to be paid to the city for a license for a tanning facility shall be as established by the council.

Section 22-315.

Renewal; nontransferability.

- (a) The license issued by the city pursuant to this article shall be renewed each year on or before January 1.
- (b) The license issued under this article is valid only for the location stated on the license and is not transferable.

Section 22-316.

Display of license.

The license shall be displayed in a conspicuous place on the premises of the tanning facility.

Section 22-317.

Suspension and revocation.

Any license issued under this article may be revoked, suspended or not renewed by the city council upon a showing that the licensee, its owners, employees or agents, have engaged in any of the following conduct:

- (a) Maintained unsanitary or other conditions in the operation of this facility, which in the health officer's judgment, constitute a substantial hazard to the public health.
- (b) Engage in fraud, deception or misrepresentation in connection with the securing of the license.
- (c) Engage in any conduct which would constitute grounds for refusal to issue a license.
- (d) Engage in conduct adversely affecting the public health, safety and welfare.
- (e) Failing to comply with any of the requirements pursuant to section 22-292.

Sections 22-318 thru 22-340.

Reserved.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE VIII. Used Car Dealers

***State law reference--Motor vehicle dealers, Minn. Stats. § 168.27.**

Section 22-401. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Motor vehicle means any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles, manufactured homes, and park trailers.

Used car dealer means any person whose principal business is (i) the buying and selling or storage of used motor vehicles, or (ii) providing a place and facilities for the sale of motor vehicles by other persons.

Used motor vehicle means a motor vehicle for which title has been transferred from the person who first acquired it from the manufacturer, distributor, or dealer.

Section 22-402. Records required.

Every person licensed under this article shall keep and preserve a book in which there shall be made at the time of the transaction, a record in English of every purchase, sale, storage, or exchange of all used motor vehicles, purchased, sold, stored, exchanged, or left in his possession for sale, or storage. Such records shall include the following information: the name, place of residence, including street and number, and a personal description of each person from whom a used motor vehicle is obtained, or to whom such a vehicle is delivered, the date and hour received or delivered, a description of the used motor and manufacturers' numbers and any other serial number and any peculiar mark or marks of identification whatsoever, style of body, seating or other capacity, color, and car and license number.

Section 22-403. Inspection of books, records, etc.

The books provided for in Section 22-402 and all used motor vehicles, in the possession of the licensee shall be at all reasonable times open to the inspection of the chief of police, any member of the police force, or any person duly authorized in writing by the chief of police for such purpose. No licensee, clerk, agent, or other person in charge of the premises or business of a licensee, shall refuse to admit thereto any person authorized in this section to examine records, or fail to exhibit to such person on demand all motor vehicles, books, papers, and inventories relating thereto.

Sections 22-404 thru 22-420. Reserved.

Section 22-421. License Required.

- (a) No person shall carry on the business of a Used Car Dealer in the City of Anoka without first obtaining a license to Sell Used Motor Vehicles from the City of Anoka.

- (b) No person shall carry on business from any other place in the City than the one designated in the license therefore; nor shall such person continue to carry on business after such license has been revoked, cancelled, suspended or has expired.
- (c) No license herein provided shall be granted to or renewed for, any person who has been convicted of any of the following:
 - (1) Conviction within the previous year of the date of application of a violation of this article or applicable zoning regulations;
 - (2) Conviction within the previous five (5) years of the date of application of knowingly receiving stolen goods;
 - (3) Conviction within the previous five (5) years of the date of application of a petty misdemeanor, misdemeanor, or gross misdemeanor, relating to the sale of motor vehicles, the operation of a motor vehicle business or its' motor vehicle business transactions;
 - (4) Conviction within the previous ten (10) years of the date of application of any felony.
- (d) No license herein provided shall be granted to, or renewed for, any person who does not hold a valid and current State of Minnesota Dealership license.
- (e) No license shall be granted to any person doing business in a location contrary to the provisions of the zoning code or amendments thereof, unless a conditional use permit has been granted under Article IV of Chapter 74.
- (f) No person shall be permitted to move a business licensed there under to a location within the City prohibited by the Zoning Code.

Section 22-422.

Application.

Every person desiring to procure a license, as provided in this article, shall file with the city clerk a written application furnished by the city. Such application shall contain the names and residences of (i) the applicant, if an individual, (ii) the partners, if a partnership, (iii) the shareholders and officers, if a corporation, or (iv) the members of a limited liability company. Such application shall also describe in detail the character of the business in which the applicant desires to engage. It shall also state the following:

- (a) The length of time such applicant(s), has or have resided in the City, applicant's places of previous employment, whether the applicant has been convicted of a felony, gross misdemeanor, misdemeanor or petty misdemeanor, other than petty misdemeanor minor traffic violations, and, if so, what offense, when, and what court.
- (b) The premises where such business is to be located, giving street and number.
- (c) Whether the applicant has previously, either alone or with someone else, been a used car dealer or motor vehicle junk dealer.
- (d) Such other information as may be required by the City Council.

Section 22-423.

Issuance; contents; reapplication after denial.

Upon the filing of the application as provided for in this Article, the City Council may, upon its approval of such application after such investigation as it shall require and the

payment to the City of the license fee, issue to the applicant a license to engage in the business as a Used Car Dealership. All licenses shall state clearly the location of the place of business from which the person receiving such license shall be authorized to carry on the business as used car dealer, the date of issuance and expiration of the license, and the name and address of the licensee. No applicant to whom a license has been refused shall make further application until a period of at least one (1) year shall have elapsed since the last previous rejection. In the event another individual or entity applies for a license or renewal of a license for a premises of a previously rejected applicant, the City Council may, in its sole discretion, deny the application or renewal unless the new applicant provides verification, to the satisfaction of the City Council, that the rejected applicant will have no interest in the operation of the business.

Section 22-425.

Fee; term; use by another person; duplicates.

Every used car dealer shall pay such license fees as are determined by Council ordinance. There shall be no pro-rating of license fees. All licenses shall be issued as of initial approval or January 1st and shall continue in force until December 31st, unless renewed, sooner suspended, or revoked. No license shall be used by any person other than the original licensee, and any holder of such license who permits it to be used by another person, and any person who uses such license granted to any other person, shall be guilty of a violation of this article.

Section 22-426.

Renewal of License.

The renewal of a license shall be in the same manner as stated for the issuance of an initial license, which shall be acted upon Administratively, with the exception of applications that have lapsed over thirty (30) days from their expiration date, or which a concern or objection has been expressed by a City department during the investigation of the renewal application. Such application must be forwarded to the City Council for action.

Section 22-427.

Revocation.

The City Council may, at any time, for such cause as it, upon investigation, deems sufficient, revoke any license granted under the provisions of this article. Whenever any license granted under the provisions of this article shall be revoked, no refund of an unearned portion shall be made and no license shall be granted to any person whose license has been revoked within a period of one year from the date of such revocation. Notice of such revocation and the reasons therefore in writing shall be served by the City Clerk upon the licensee by mailing the notice to the address given in the license and upon filing a copy of such with the city manager.

Sections 22-428 thru 22-446. Reserved.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE IX. Fireworks

Section 22-447. Purpose and Intent.

Due to the inherent risks of fire and injury to persons and property associated with the sale, possession and use of fireworks, the City Council has determined that it is necessary and in the interest of public health, safety and welfare to establish reasonable regulations concerning fireworks. The City Council makes the following findings regarding the need to license and regulate the sale, distribution, storage and display of fireworks permitted under State law:

- (a) Consumer fireworks contain pyrotechnic chemical compositions that are combustible; accordingly, the unregulated accumulation, storage, display and sale of these items present fire safety hazards; and
- (b) The improper disposal of consumer fireworks presents environmental hazards; and
- (c) Due to their short-term and mobile nature, it is more difficult and demanding of public safety resources and City staff to enforce compliance with City ordinances and state law for temporary and transient sales of consumer fireworks than it is for permanent, established business.

Section 22-448. Adoption of State Law.

Fireworks are regulated by Minnesota State Statutes § 624.20 through 624.25 inclusive, which are hereby adopted by reference and as may be amended from time to time and Minnesota State Fire Code, Chapter 33.

Section 22-449. License Required.

It is unlawful to sell, display or store fireworks in the City of Anoka in violation of Minnesota Statutes 624.20 through 624.25. Consumer fireworks, as defined in this Chapter, may; however, be sold, displayed, advertised for sale, or stored as inventory for sale upon issuance of a license approved by the City of Anoka.

Section 22-450. Definitions.

Applicant. As used in this Chapter shall mean the individual person who signs the application to the City for a license on behalf of the person or entity who applies for a license under this Chapter.

Consumer Fireworks. As used in this Chapter shall mean wire or wood sparkling items which are non-explosive and non-aerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes, and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, sting poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture.

Fireworks. As used in this Chapter shall mean any substance or combination of substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers other than those specified in Section 17.104 (a), or other fireworks of like construction, and any fireworks containing any explosive or inflammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks.

Licensee. As used in the Chapter shall mean the individual person or entity to whom a license is issued by the City under the provisions of this Chapter to store, display or sell or advertise for sale consumer fireworks, and a person or entity to whom a license is issued by the City to make a public display of fireworks.

Section 22-451.

Application for License.

An application for a license for the sale, storage, display and sale or advertising for sale of consumer fireworks shall be made to the City Clerk and must be approved by the City Council.

(a) Required information. The complete license application shall be given to the City Clerk a minimum of thirty (30) days prior to the commencement of the storage, display, or sale of consumer fireworks by the licensee and shall include the following information:

1. Applicant's and proposed licensee's full name, address, phone number, and date of birth. The applicant and licensee must be eighteen (18) years of age or older. If a corporate application, the applicant shall be the store manager.
2. The addresses and phone numbers for all the sites for which the proposed licensee intends to store, display or sell consumer fireworks.
3. The zoning designation of each site.
4. An agreement by the applicant and the licensee that the applicant and licensee understand that those persons storing, displaying or selling consumer fireworks must be at least eighteen (18) years of age.
5. An agreement by the applicant and the licensee that they understand what constitutes consumer fireworks and which fireworks are illegal under state law and this ordinance.
6. Documentation signed by the owner of the real property at which the storage, display or sale of consumer fireworks, or the public display of fireworks is to take place, showing to the satisfaction of the City Council that the owner has granted to the proposed licensee permission to use the property for that purpose.
7. An 8 ½ by 11-inch floor plan designating the area within buildings on the site for storage, sale, or display of consumer fireworks.
8. A list documenting the identity, type, weight and numerical quantity of consumer fireworks that will be located within buildings on the site.

9. A certificate of insurance showing proof that the licensee will have, before commencement of the use of a license for storage, display, sale or advertising for sale of consumer fireworks, a policy of public general liability, bodily injury and property damage insurance from a company or companies approved by the City of Anoka in the minimum amount of one million dollars (\$1,000,000) single limit.
 10. Such other information as may be reasonably required by the City of Anoka to process the license application.
- (b) Background Check. Prior to processing the application, a criminal background check must be conducted of the applicant and the proposed licensee. Neither the applicant nor the licensee, or owner shall have been convicted of a felony or a fire or fireworks related misdemeanor within three (3) years of the date of application.
- (c) Inspection of Location. Prior to processing the application, the Fire Chief shall make a determination that the location where consumer fireworks are to be stored, displayed or sold meets appropriate codes to regulate and control the inherent hazards of the product, and that the persons in charge of selling, displaying or storing the consumer fireworks are competent and trained to handle such consumer fireworks.

Section 22-452.

Issuance of License.

The City Council shall grant a consumer fireworks license to an applicant who complies with the provisions of this Chapter unless the applicant or the licensee or the site at which the licensee proposes to operate have been the subject of or location of prior violations of this Chapter or a similar ordinance in another jurisdiction. Licenses granted hereunder shall be non-transferable. A separate license shall be required for each location at which a licensee intends to store, display, sell or advertise for sale consumer fireworks or make a public display of fireworks.

Section 22-453.

License Period and Fee.

Licenses shall expire one (1) year from the date of the resolution approving the application. Re-issuance shall require new application and City Council approval. License fees shall not be prorated and are non-refundable. The fee shall be as established from time to time by the City Council.

Section 22-454.

Terms and Conditions for Issuance of a License.

A license for the storage, display, or sale of consumer fireworks shall be issued only upon the following terms and conditions:

- (a) Storage, display or sales of consumer fireworks may occur only in industrial and commercial zoning districts in which the activity constitutes a permitted use, and must comply with all applicable City ordinances. No exterior storage, display, sales or transient sales of consumer fireworks shall be permitted. Outdoor movable or portable places of business, mobile kiosks, trailers, or other non-permanent or mobile stands shall not be used for the storage, display or sale of consumer fireworks.
- (b) No storage, display or sales for commercial use shall occur on property used for residential, educational, or public assembly purposes.
- (c) Below grade storage is prohibited.

- (d) Smoking shall not be permitted in any building or tenant space where consumer fireworks are stored, displayed or sold. Areas where consumer fireworks are stored, displayed or sold shall provide “no smoking” signs in red letters not less than two (2) inches in height on white background All signs shall be maintained in legible condition and shall be approved by the Fire Chief.
- (e) Discharge of consumer fireworks shall be prohibited within one hundred feet (100') of any building in which fireworks are manufactured, stored, displayed or sold.
- (f) Each location at which consumer fireworks are stored, sold, or displayed shall have a minimum of two (2) 2.5 gallon pressurized water extinguishers or a dry chemical extinguisher carrying a classification no less than 3A-20BC, and be adequate for the amount of fireworks on hand as determined by the Fire Chief.
- (g) The premises where the licensed activity is to take place must be in compliance with the State Building Codes and State Fire Codes. There shall be at least two (2) exits accessible to all occupants from all buildings where the licensed activity takes place.
- (h) In buildings without an automatic sprinkler system approved by the Fire Chief, consumer fireworks displays or storage shall be limited to 62.5 pounds net pyrotechnic composition or two hundred fifty (250) pounds gross weight, if the pyrotechnic composition is not known.
- (i) Storage or display of consumer fireworks in buildings protected throughout by an automatic sprinkler system approved by the Fire Chief shall be limited to one hundred twenty-five (125) pounds net pyrotechnic composition or five hundred (500) pounds gross weight if the pyrotechnic composition weight is not known.
- (j) All buildings in which consumer fireworks are stored, displayed or sold shall be posted in a conspicuous location with a list of all consumer fireworks located on the property, together with material safety data sheets for those materials. The posting shall state the description, weight and quantity of fireworks on the property.
- (k) Upon request, samples of the fireworks shall be made available to the Fire Chief for testing purposes.
- (l) The age of all purchasers of consumer fireworks must be verified to be eighteen (18) years by photo identification at the time of each sale.
- (m) The premises where the licensed activity takes place are subject to inspections by City employees, including the Fire Chief, Building Official, and Police Officers, during normal business hours, at the discretion of the City.
- (n) Safety information approved by the Fire Chief must be available at each sale of consumer fireworks.

Section 22-455.

Discharge Rules and Regulations.

- (a) It is unlawful to discharge consumer fireworks on public property.
- (b) It is unlawful to use, fire, or discharge any fireworks along the route and during any parade or at any place of public assembly or in any commercial district.

- (c) It is unlawful at any time to throw or toss any fireworks at any person, animal, vehicle, or other thing or object.
- (d) Fireworks may only be discharged in an area with a water source connected to a hose or other acceptable means of putting out a fire.
- (e) The Fire Chief may ban fireworks or shorten the season of the fireworks discharge if a drought is evident or any equitable need for public safety arises.
- (f) Juveniles may not possess fireworks unless under the direct supervision of a responsible adult.

Section 22-456.

Public Display.

Licenses will not be issued for the public display of fireworks except in accordance with Minnesota Statutes 624.22, and shall require that the application for and issuance of the license for public display of fireworks be the same, so far as applicable, as the requirements for a license for storage, display and sale of consumer fireworks.

Section 22-457.

Revocation of License.

In the event of the discovery of fraud in the application for the consumer fireworks license, or the conviction of the licensee or manager, officer or owner of a felony or of a violation of this Chapter or a similar ordinance in another jurisdiction, the license may be revoked. Revocation shall not occur unless the licensee has first been provided written notice by the City of the violation(s) and of its intent to seek revocation, and an opportunity for a timely hearing on the revocation before the City Council. If, in the opinion of the Fire Chief or the City Manager that the continued operation under the license following discovery of the violation would constitute an unreasonable and imminent danger to persons or property, those officials may temporarily suspend the license until the Council has acted on a revocation request by those officials. If a license is revoked, neither the applicant, the licensee, or the premise where the licensee's licensed activity took place, may apply for, obtain or be the site for a license for a period of twelve (12) months from the effective date of the revocation.

Section 22-458.

Enforcement.

It shall be the duty of the Fire Chief or his/her designee, in conjunction with the Building Official and Police Officers, to enforce the provisions of this Chapter.

Section 22-459.

Violations.

- (a) Any person who violates the provisions of this Chapter shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.
- (b) Any violation of the provisions of this Chapter shall preclude the applicant, licensee, or the site of violation from qualifying for another license or as a place where the license activity may occur for a period of twelve (12) months from the effective date of revocation.
- (c) Materials that are in violation of this Chapter or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal may be assessed back to the property from which the materials were removed in the same manner as in the recovery of the costs of abatement of a nuisance.

- (d) In the event of a violation of this Chapter, the City may institute appropriate proceedings, including bringing criminal charges, or seeking civil or injunctive relief, to prevent, restrain, correct or abate such violation. The City, in any court of competent jurisdiction, may recover all costs incurred for corrective action. Any violator of this Chapter shall be responsible for the City's cost of prosecution, including attorney fees.

Section 22-460.

Severability.

If any section, subsection, sentence, clause, phrase or portion of this Chapter is, for any reason, held to be invalid or unconstitutional by any court of administrative agency of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Sections 22-461 thru 22-480. **Reserved.**

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE X. Tobacco & Tobacco Related Products

*State law reference--Municipal licensing and regulation of retail sales of tobacco, Minn. Stats. § 461.12, subd. 1.

Section 22-481. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Compliance checks means the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this ordinance and state laws. Compliance checks shall involve the use of minors as authorized by this article. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by state and federal laws.

Minor means any person under the age of 18 years.

Retail establishment means any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Self-service merchandising means open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee.

Tobacco or tobacco products mean any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; Cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, smoking, smoking in a pipe, rolling paper, or other tobacco-related device.

Tobacco related devices means any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

Vending machine means any mechanical, electric or electronic or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device, unless the machine can be controlled by an electronic device by an employee of the business.

Section 22-482.

Responsibility of licensee.

All licensees under this article shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such item by an employee shall be considered a sale by the license holder.

Section 22-483.

Penalties/revocation or suspension of license.

A violation of any provision of this article shall constitute a misdemeanor, unless otherwise specified by other federal or state laws or regulations. A violation of any provision of this article, or a violation of any provision of Minn. Stats. § 609.685, shall be cause for immediate revocation or suspension of the license by the city council. Any fee paid to the city for a license shall be forfeited upon revocation or suspension of the license.

Section 22-484.

Administrative penalties.

- (a) *Notice.* Upon discovery of a suspected violation of any of the provisions of the article, 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 right to be heard on the charges.
- (b) *Hearings.* If a person accused of violating this article so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.
- (c) *Hearing officer.* The city manager shall serve as the hearing officer.
- (d) *Decision.* If the hearing officer determines that a violation of this article has occurred, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.
- (e) *Appeals.* Appeals of any decision made by the hearing officer shall be filed with the clerk of the county district court.
- (f) *Misdemeanor prosecution.* Nothing in this section prohibits the city from seeking criminal prosecution for any alleged violation of this article. If the city elects to seek criminal prosecution, no administrative action or penalty shall be imposed.
- (g) *Continuing violations.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
- (h) *Penalties.* Any licensee found to have violated this article, or whose employee shall have violated this article, shall be charged an administrative fee of \$75.00 for a first violation of this ordinance; \$200.00 for a second offense at the same licensed premises within a 24-month period; and \$250.00 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

- (i) *Other individuals.* Other individuals, other than minors regulated by subsection (j) of this section, shall be charged an administrative fee of \$50.00.
- (j) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be charged an administrative fee of \$25.00, participate in the juvenile metro program or engage in such other program as the city police department believes will be appropriate and effective.

Section 22-485.

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 to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city law enforcement officers. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as 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 employee and shall produce any identification, if any exists, for which he 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 or regulation.

Section 22-486.

Underage persons.

- (a) *Illegal sales.* It shall be a violation of this article for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor.
- (b) *Illegal possession.* It shall be a violation of this article for any minor to have in his possession any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.
- (c) *Illegal use.* It shall be a violation of this article for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.
- (d) *Illegal procurement.* It shall be a violation of this article for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.
- (e) *Use of false identification.* It shall be a violation of this article for any minor to attempt to disguise his 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.

State law reference--Similar provisions, Minn. Stats. § 609.685.

Section 22-487.

Retail license.

- (a) No person shall directly or indirectly keep for retail sale, sell at retail either personally or through a vending machine, or otherwise dispose of any tobacco, tobacco product or tobacco related device in the city unless a license therefore shall first have been obtained. Each vending machine that dispenses tobacco products shall be individually licensed.
- (b) An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, the location of the building and the part intended to be used by the applicant under such license, the kind or nature of business, and any additional information the city deems necessary. Upon the filing of such application with the city clerk, it shall be presented to the city council for consideration, and if granted by the council, a license shall be issued by the city clerk upon payment of the required fee.
- (c) The fees for licenses under this article shall be determined by the council. Each such license shall expire on December 31 next after its issuance. Licenses shall not be transferable from one person or entity to another, nor shall they be transferable from one premise to another premise.
- (d) Every license issued under this article shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person upon request.
- (e) The renewal of a license issued under this section shall be made 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.
- (f) The following shall be grounds for denying the issuance or renewal of a license under this article:
 - (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, or tobacco related devices.
 - (3) The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding 24 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 such a license.
 - (6) The applicant has failed to pay any required application or licensing fees to the city.

Section 22-488.

Vending machines.

No person shall sell or dispense any tobacco, tobacco product, or tobacco related device by means of a vending machine unless the vending machine is located in an area which does not permit unrestricted access to the vending machine by a minor. A violation of this section shall be cause for immediate license revocation.

Section 22-489.

Self-service merchandising.

No person or entity shall offer for sale any tobacco, tobacco products, or tobacco related devices, by any means where the customer has access to such items without having to request the item from a licensee or a licensee's employee, and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device, between the licensee or his clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or in an area not freely accessible to a customer, or in a case or in a storage unit not left open and accessible to the general public.

Section 22-490.

Prohibited sales.

It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

- (1) To any person under the age of 18 years.
- (2) By means of any type of vending machine.
- (3) 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, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee or the licensee's employee, and the customer.
- (4) 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.
- (5) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation

Sections 22-491 thru 22-499.

Reserved.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE XI. **Parades**

Section 22-500. **License Required.**

No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the chief of police.

Section 22-501. **Application--Filing.**

A person seeking issuance of a parade permit shall file an application with the chief of police on forms provided by such officer within not less than 20 days nor more than 60 days before the date upon which it is proposed to conduct the parade.

Section 22-502. **Application--Contents.**

The application for a parade permit shall set forth the following information:

- (a) The name, address and telephone number of the person seeking to conduct such parade.
- (b) If the parade is proposed to be conducted for or on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization.
- (c) The name, address and telephone number of the person who will act as parade chairman and be responsible for the conduct of the parade.
- (d) The date the parade is to be conducted.
- (e) The starting point, route to be traveled and termination point of the parade.
- (f) The approximate number of persons, animals and vehicles which will constitute such parade and the type and description of the animals and vehicles.
- (g) The hours when such parade will start and terminate.
- (h) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traveled.
- (i) The location and description of any assembly areas for such a parade.
- (j) The time at which units of the parade will begin to assemble at any such assembly area.
- (k) The interval of space to be maintained between units of such parade.
- (l) Any additional information which the chief of police shall find reasonably necessary to a fair determination as to whether a permit should be issued.

Section 22-503. **Application--Late filing.**

The chief of police, where good cause is shown therefore, shall have authority to consider any application which is filed not less than ten days before the date such parade is proposed to be conducted. On applications by school officials, the chief of police may grant a permit if the application is made three days prior to the date of such parade.

Section 22-504.

Standards for issuance.

The chief of police shall issue a permit when, from a consideration of the application and such other information is available to him, he finds as follows:

- (a) Conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic within the city contiguous to the parade route or interfere with the movement of firefighting equipment.
- (b) The conduct of the parade will not require the diversion of so great a number of police officers as to prevent normal police protection to the city.
- (c) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection to areas contiguous to such assembly areas.
- (d) The conduct of the parade is not reasonably likely to cause injury to persons or property nor provoke disorderly conduct.
- (e) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

Section 22-505.

Notice of rejection.

The chief of police shall act upon the application for a parade permit within three days after the filing thereof. If the chief of police disapproves the application, he shall immediately mail to the applicant a notice of his actions stating the reasons for the denial of the permit.

Section 22-506.

Appeal procedure.

Any person aggrieved by a denial of a permit shall have the right to appeal to the city council at its next scheduled meeting following such denial. Written notice of such appeal shall be given to the city manager before such next scheduled city council meeting.

Section 22-507.

Alternative permit.

The chief of police, in denying an application for a private permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within three days after notice of the action of the chief of police, file a written acceptance with the chief of police.

Section 22-508.

Notice to other officials of issuance.

Immediately upon the issuance of a parade permit, the chief of police shall send a copy thereof to the city manager, fire chief and to the director of any public transportation system, the regular routes of whose vehicles will be affected by the route of the proposed parade.

Section 22-509.

Contents of permit.

Each permit shall state the following information:

- (a) Starting time.
- (b) Minimum and maximum speed of parade.

- (c) Maximum interval of space to be maintained between the units of the parade.
- (d) The portions of the streets to be traveled.
- (e) The maximum length of the parade.
- (f) Such other information as the chief of police shall deem necessary.

Section 22-510.

Revocation.

The chief of police shall have the authority to revoke a parade permit issued under this article, on notice, upon application of the standards for issuance as set forth in this article.

CHAPTER 22. LICENSING; BUSINESSES & SERVICES

ARTICLE XII.

Adult Establishments

Section 22-520.

Findings.

The Minnesota Attorney General, the American Planning Association, and cities such as St. Paul and Minneapolis, Minnesota; Indianapolis, Indiana; Cleveland and Bradley County, Tennessee; Phoenix, Arizona; Austin, Texas; Toledo, Ohio; Bellevue, Washington; St. Croix County, Wisconsin; Kansas City, Missouri; and Newport News, Virginia, have studied the impacts that adult establishments have in those communities. These studies concluded that adult establishments have adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. Based on research and review of these studies, the City Council makes the following findings:

- (a) Adult establishments have adverse secondary impacts of the types set forth above.
- (b) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
- (c) It is not the intent of the City Council to prohibit adult establishments from having a reasonable opportunity to locate in the City.
- (d) Minnesota Statutes, § 462.357, allows the City to adopt regulations to promote the public health, safety, morals and general welfare.
- (e) The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing adult establishments.
- (f) Adult establishments can contribute to an increase in criminal activity in the area in which such businesses are located, taxing City crime-prevention programs and law enforcement services.
- (g) Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize the risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
- (h) Adult establishments can increase the risk of exposure to communicable diseases including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicated that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.
- (i) Adult establishments 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.
- (j) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

Section 22-521.

Purpose.

It is the purpose of this Ordinance to regulate Adult Establishments to promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- (a) Prevent additional criminal activity within the City;
- (b) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
- (c) Locate adult establishments away from residential areas, schools, churches, libraries, parks and playgrounds; and
- (d) Prevent concentration of adult establishments within certain areas of the City.

Section 22-522.

Content-Neutral Regulation.

The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to adult-oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult-oriented entertainment to their intended market.

Section 22-523.

Definitions.

For purposes of this Chapter, the following terms have the following meanings:

- (a) **Adult Establishment.** A business engaged in any of the following activities or which utilizes any of the following business procedures or practices:
 - (1) Any business that has (a) at least twenty percent (20%) of its inventory, stock and trade or publicly displayed merchandise, or (b) at least twenty percent (20%) of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) devoted to items, merchandise or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas; or
 - (2) Any adult use as defined in Section 44-4 (b).
- (b) **Adult Use.** An adult use is any of the activities and businesses described below:
 - (1) **Adult Body Painting Studio.** An establishment or business, other than a massage parlor licensed under City Code that provides the service of applying paint or other substance, whether transparent or non-transparent, to the body of a patron when such person is wholly or partially nude in terms of "specified anatomical areas".
 - (2) **Adult Bookstore.** An establishment or business used for barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, motion picture film, or other visual media if (a) at least twenty percent (20%) of the inventory, stock, and trade or publicly displayed merchandise or (b) at least twenty percent (20%) of the floor area of the business (not including storerooms, stock areas,

- bathrooms, basements or any portion of the business not open to the public) is devoted to items, merchandise or other material distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (3) Adult Car Wash. A wash facility for any type of motor vehicle that allows employees, agents, independent contractors or persons to appear in a state of partial or total nudity in terms of "specified anatomical areas."
 - (4) Adult Cabaret. A business or establishment that provides dancing or other live entertainment to patrons if the dancing and live entertainment is distinguished or characterized by an emphasis on the presentation, display, or depiction of "specified sexual activities" or "specified anatomical areas".
 - (5) Adult Companionship Establishment. A business or establishment that 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."
 - (6) Adult Conversation/Rap Parlor. A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 - (7) Adult Entertainment Facility. A building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentations of entertainment distinguished by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 - (8) Adult Health/Sport Club. A health/sport club that is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 - (9) 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."
 - (10) Adult Massage Parlor, Health Club. A massage parlor or health club that provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 - (11) Adult Mini-Motion Picture Theater. A business or establishment with a capacity for less than fifty (50) persons used for presenting material if such material is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 - (12) Adult Modeling Studio. A business or establishment that provides customers figure models who are so provided with the intent of

providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or display “specified anatomical areas” while being observed, painted, painted upon, sketches, drawn, sculptured, photographed, or otherwise depicted by such customers.

- (13) 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 maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”
 - (14) Adult Motion Picture Theater. A motion picture theater with a capacity of fifty (50) or more persons that as a prevailing practice presents materials distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons.
 - (15) Adult Novelty Business. A business or establishment that has (a) at least twenty (20%) of its inventory, stock and trade or publicly displayed merchandise, or (b) at least twenty percent (20%) of the floor area of the business (not including storerooms, stock areas, bathrooms, basement or any portion of the business not open to the public) devoted to items, merchandise or other material or devices which stimulate human genitals or devices which are designed for sexual stimulation.
 - (16) Adult Sauna. A business or establishment that provides a steam bath or heated bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (c) Daycare Facility. A facility holding a license from Anoka County or the State of Minnesota under Minnesota Statutes 245A and/or Minnesota Rules Chapter 9502 or Chapter 9503, as amended.
 - (d) Employ, Employee, and Employment. These words describe and pertain to any person who performs any service on the premises of an adult establishment, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premise for repair or maintenance of the premises or for the delivery of goods to the premises.
 - (e) Minor. Any person under the age of eighteen (18) years.
 - (f) Nudity means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this chapter, a female breast is considered uncovered if the nipple only or the nipple and the areola are covered.

- (g) Library means any public library that provides free access to all residents of the City or County without discrimination and is organized under Minnesota Statute 134.
- (h) Park land means a park, playground, beach or recreation area that is owned, leased, or used wholly or in part by the City of Anoka, Anoka County, the State of Minnesota, a school district, or the federal government for recreation purposes.
- (i) Person shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.
- (j) Place of worship means a building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.
- (k) School means a building or space that is principally used as a place where twenty-five (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 the purposes of this ordinance.
- (l) Specified Anatomical Areas means:
 - (1) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (m) Specified Sexual Activities means:
 - (1) Actual or stimulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
 - (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or turnescence; or
 - (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
 - (4) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
 - (5) Situations involving a person or persons, any of whom are nude, clad in undergarments or sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of such persons; or
 - (6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

- (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Section 22-524.

Compliance with Regulations; Interpretation.

No adult establishments shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult establishment which is prohibited by any ordinance of the City, the laws of the State of Minnesota, or the United States of America. Nothing in this chapter shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including, but not limited to, statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene materials generally, or the exhibition, sale or distribution of specified materials to minors.

Section 22-525.

License Required; Exemptions.

No adult establishment shall be operated or maintained in the City without first obtaining a license to operate issued by the City. A license may be issued for only one adult establishment at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one adult establishment in the City shall have a separate license for each such business. All public and private schools located within the City are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

Section 22-526.

Application for License.

- (a) Information Required. Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk. The application for a license shall be upon a form provided by the City and shall include the following information:
- (1) If the applicant is an individual, the name, residence, phone number and birthdate of the applicant. If the applicant is partnership, the name, residence, phone number, and birthdate of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers and birthdates of all officers and directors of the corporation.
 - (2) The name, address, phone number and birthdate of the operator and manager of such operation, if different from the owners.
 - (3) The address and legal description of the premises where the adult establishment is to be located;
 - (4) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity or the operation of an adult establishment or adult business by the applicant, operator, manager and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions of the officers and directors of the corporation, and whether or not those officers of directors have ever applied for or held a license to operate a similar type of business in other communities.
 - (5) The activities and type of business to be conducted.
 - (6) The hours of operation.

- (7) The provisions made to restrict access by minors.
- (8) A building plan of the premises detailing all internal operations and activities.
- (b) Submission. Upon receipt of a completed application for a license, including the license fee, the City Clerk shall submit the request for an adult establishment to the City Council for approval or denial.
- (c) False Information Prohibited. Each application shall contain a provision on the application in bold print indicating that any withholding of information or the providing of false or misleading information will be grounds for denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be brought to the attention of the City Council by the applicant or the licensee. If said changes take place during the investigation, said data shall be provided to the Police Chief in writing and reported to the City Council. Failure to report said changes by the applicant(s) or the licensee may result in a denial or revocation of a license.

Section 22-527.

License Fees and Term; Renewals.

- (a) Investigation Fee. Each application for a license shall be accompanied with a fee as established by the City Council for the costs of investigation of the application.
- (b) License Fee. If the application is approved, a license shall be issued after payment of the license fee as established by the City Council.
- (c) Term of License; Fees Prorated. All licenses shall be issued for a period of one year and shall expire on December 31 each year. The fees for licenses shall not be prorated.

Section 22-528.

Granting of License.

- (a) The Police Chief or such other designated person shall complete a background investigation within thirty (30) days after the City Clerk receives a complete application and investigative fees.
- (b) If the application is for a renewal, the applicant shall be allowed to continue business until the Council has determined to renew or refuse to renew a license.
- (c) If, after such investigation, it appears that the applicant and the place proposed for the business are eligible for a license under the criteria set forth in this Chapter, then the license shall be approved by the City Council.
- (d) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premise without the approval of the City Council. If the licensee is a partnership or corporation, a change in the identity of any of the principals of the partnership or corporation shall be deemed a transfer of the license. All adult establishments existing at the time of the adoption of this Chapter shall be required to obtain an annual license.

Section 22-529.

Persons Ineligible for a License.

No license shall be granted to or held by any person:

- (a) Under twenty-one (21) years of age;
- (b) Who is overdue in payments to the City, County or State of taxes, fees, fines or penalties assessed against them or imposed upon them;
- (c) Who has been convicted of a crime, if such conviction relates to sex offenses, obscenity offenses or adult establishments;
- (d) Who is not the proprietor of the establishment for which the license is to be issued; or
- (e) Who has not paid the license and investigative fees required by this Chapter.

Section 22-530.

Places Ineligible for a License.

No license shall be granted to:

- (a) Any adult establishment which is not in full compliance with the City Code, the City's zoning ordinance, the Building Code, the Fire Code, and all provisions of state and federal law.
- (b) Any establishment that holds an intoxicating liquor, beer or wine license.

Section 22-531.

Display of a License.

The license shall be displayed in a conspicuous public place in the adult establishment.

Section 22-532.

General Requirements.

Adult establishments shall be permitted subject to the following requirements:

- (a) Building Standards.
 - (1) No commercial building, structure or premises or part thereof, or facilities therein, shall be constructed, used, designed or operated for the purpose of persons to engage in specified sexual activities.
 - (2) Booths, stalls, or partitioned portions of a room or individual rooms used for the viewing of adult media or other forms of entertainment, having doors, curtains or portal partitions are prohibited, unless such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one side wall open to an adjacent public room or area. Such booth, stall or room shall be illuminated in a manner that the persons in the area used for viewing the adult media or other forms of entertainment are visible from adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the offered entertainment.
 - (3) The above building standards shall not apply to buildings, structures and premises which are lawfully operating as hotels, motels, apartment complexes, condominiums or rooming houses.
 - (4) No merchandise or pictures of the products or entertainment sold or conducted on the premises may be displayed in the window areas or in any area where they can be viewed from a sidewalk in front of the building. The window areas may not be covered or made opaque in any way.

(b) Location.

Adult establishments shall be permitted as indicated in the Chapter of the City Code relating to zoning. In addition, the following regulations shall apply:

- (1) An adult establishment shall not be located within 500 feet (500'), measured in a straight line from the building or edge of leased building space to the property line, of any residential zoning district (R-1, R-2, R-3, R-4, R-5, R-6, R-F) boundary or property, or in a planned unit development which is or projected to be residential.
- (2) An adult establishment shall not be allowed within one thousand feet (1,000'), measured in a straight line from the building or edge of leased building space of another existing adult establishment.
- (3) An adult establishment shall not be located within one thousand feet (1,000'), measured in a straight line, from the building to the property line, of any existing school, place of worship, hospital, library, daycare facility or park land.

(c) Operation.

- (1) No adult establishment shall be conducted in any manner that permits the observation from any property not approved as an adult establishment of any materials depicting, describing or relating to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.
- (2) All entrances to the business, with the exception of emergency fire exits which are not usable by patrons to enter the business, shall be visible from a public right of way.
- (3) The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including, but not limited to, books, magazines, photographs, video tapes, or other visual media.
- (4) Illumination of the premises shall be adequate to observe the location and activities of all persons on the exterior of the premises.
- (5) Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of order.

(d) Signs. All adult establishments shall prominently display a sign at the entrance and located within two feet (2') of the door opening device 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. No one under 18 years of age allowed." Said sign shall have letters at least three-eighths inch (3/8") in height and no more than two inches (2") in height. No sign may be placed in any window.

(e) Hours of Operation. No adult establishment shall be open to the public from the hours of 10:00 p.m. to 8:00 a.m.

- (f) Sale of Liquor. An adult establishment shall not sell or dispense 3.2 percent malt liquor or intoxicating liquor.
- (g) Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:
 - (1) No owner, operator or manager of an adult cabaret shall permit or allow an dancer or other live entertainer to perform nude.
 - (2) No dancer, live entertainer, performer, or patron or any other person shall be nude in an adult cabaret.
 - (3) No dancer, live entertainer or performer shall be under eighteen (18) years old.
 - (4) All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two (2) feet from the level of the floor.
 - (5) No dancer or performer shall perform any dance or live entertainment closer than six (6) feet to any patron.
 - (6) No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
 - (7) No patron shall pay or give any gratuity to any dancer or performer.
 - (8) No dancer or performer shall solicit any pay or gratuity from any patron.

Section 22-533.

Responsibilities of Operator.

- (a) Violations by Employees.
 - (1) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
 - (2) Any act or omission or any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (b) Minors. No employee of an adult establishment shall allow any minor to loiter around or to frequent an adult establishment or to allow any minor to view adult entertainment.
- (c) Sanitary Conditions. The operator shall maintain the premises in a clean and sanitary condition at all times.
- (d) Lighting. The operator shall maintain at least ten (10) foot-candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illuminations in the aisles shall be necessary to enable a

patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles; provided, however, at no time shall there be less than one foot-candle of illumination in said aisles as measured from the floor.

- (e) Business Transactions. All business transactions shall occur within the licensed building.
- (f) Employee Background. No employees shall have been convicted of any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use of distribution of a controlled substance as defined by state law, or the use or distribution of a dangerous weapon within the past five (5) years. The fact that a conviction may be under appeal shall not affect the disqualification of the employee.
- (g) Compliance with Provisions. The operator shall ensure compliance of the establishment and its patrons with the provisions of this chapter.

Section 22-534.

Inspections.

Members of the City's police department, the fire marshal or designee, the building official or designee, and the zoning administrator or designee shall have the authority to enter an adult use business at reasonable times to inspect the premises for the purposes of enforcing this chapter and all other applicable state laws.

Section 22-535.

Suspension or Revocation of License.

- (a) Basis for Revocation. The City Council shall revoke a adult establishment license for any of the following reasons:
 - (1) Discovery that false or misleading information or data was given on any initial or renewal application or material facts were omitted from any such application.
 - (2) The operator or an employee of an operator violates any provisions of this chapter or any rule or regulation adopted by the City Council pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the City Council finds that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge.
 - (3) The operator becomes ineligible to obtain a license.
 - (4) Any cost or fee required to be paid by this chapter is not paid.
 - (5) Any 3.2 percent malt liquor or intoxicating liquor is served or consumed on the premises of the adult use business.
 - (6) Any violation of this Chapter.
- (b) In the event that the City Council proposes to revoke or suspend the license, the licensee shall be notified in writing of the basis for such proposed revocation or suspension. The Council shall hold a hearing for the purpose of determining whether to revoke or suspend the license. Such hearing shall be held within thirty (30) days of the date of the notice.

- (c) The City Council shall determine whether to suspend or revoke a license within thirty (30) days after the close of the hearing or within sixty (60) days of the date of the notice, whichever is sooner, and shall notify the licensee of its decision within that period. The licensee may continue to operate until the City Council makes its final decision whether to suspend or revoke the license.

Section 22-536.

Right of Appeal

- (a) In the event that the Council determines to suspend, or revoke a license, such suspension or revocation shall not be effective until fifteen (15) days after notification of the decision to the licensee. If, within that fifteen (15) days, the licensee files and serves an action in state or federal court challenging the Council's action, then the suspension or revocation shall be stayed until the conclusion of such action.
- (b) If the City Council determines not to renew a license, the licensee may continue the business for fifteen (15) days after receiving notice of non-renewal. If the licensee files and serves an action in state or federal court within that fifteen (15) days challenging the Council's action, the licensee may continue in business until the conclusion of the action.
- (c) Any operator whose license is revoked shall not be eligible to apply for a license for one year from the date of revocation. No location or premises for which a license has been revoked shall be used as an adult establishment for six (6) months from the date of revocation of the license.
- (d) If the City Council decides not to grant a license to an applicant, then the applicant may commence an action in state or federal court within fifteen (15) days of the denial of the challenging the Council's action. The applicant shall not commence doing business unless the action is concluded in its favor.

Section 22-537.

Violation; Penalty.

- (a) Any person violating any provision of this Chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

CHAPTER 30. ELECTIONS

Article I. In General

State law references--Charter provisions to prevail over certain state election laws, Minn. Stats. § 410.21; elections generally, Minn. Stats. chs. 200--211C; municipal elections, Minn. Stats. ch. 205.

Section 30-1. Precinct boundaries.

The city shall be divided into eight precincts as follows:

- (a) *First precinct.* All that part of the area included within the boundaries of the City of Anoka which lies west of the middle of the Rum River and south and easterly of the following described line: beginning at the intersection of the middle of the Rum River and the centerline of U.S. Highway No. 10; thence westerly along the centerline of U.S. Highway No. 10 to its intersection with the centerline of West Main Street; thence southeasterly along the centerline of West Main Street to the intersection of the centerline of Green Avenue; thence southerly along the centerline of Green Avenue to the intersection of the centerline of Western Street; thence west and northwesterly along the centerline of Western Street to the intersection of the centerline of Shaw Avenue; thence southwesterly along the centerline of Shaw Avenue to the intersection of the centerline of Park Street; thence northwesterly along the centerline of Park Street to the intersection of the centerline of the continuation of Shaw Avenue; thence southwesterly along the centerline of Shaw Avenue to the Mississippi River and there terminating.
- (b) *Second precinct.* All that part of the area included within the boundaries of the City of Anoka which lies northeasterly of the centerline of the Mississippi River and westerly of the line described as follows: beginning at the intersection of the middle of the Mississippi River and the continuation of the centerline of Shaw Avenue; thence northeasterly along the centerline of Shaw Avenue to the intersection of the centerline of Park Street; thence southeasterly along the centerline of Park Street to the intersection of the centerline of the continuation of Shaw Avenue; thence northeasterly along the centerline of Shaw Avenue to the intersection of the centerline of Western Street; thence southeasterly and easterly along the centerline of Western Street to the intersection of the centerline of Green Avenue; thence northerly along the centerline of Green Avenue to the intersection of the centerline of West Main Street; thence northwesterly along the centerline of West Main Street to the intersection of the centerline of U.S. Highway No. 10; thence continuing northwesterly along the centerline of U.S. Highway No. 10 to the westerly city limits and there terminating.
- (c) *Third precinct.* All that part of the City of Anoka lying westerly of the centerline of the Rum River and lying north and northeasterly of the centerline of U.S. Highway 10.

- (d) *Fourth precinct.* All that part of the City of Anoka lying within the boundaries of the following described line: beginning at the intersection of the centerline of the Mississippi River and the centerline of the Rum River; thence northerly along the centerline of the Rum River to the intersection of the centerline of Madison Street extended westerly; thence easterly along the westerly extension of, and the centerline of Madison Street to the intersection of the centerline of Fifth Avenue; thence southerly along the centerline of Fifth Avenue to the intersection of the centerline of South Street; thence easterly along the centerline of South Street to the easterly city limits and there terminating.
- (e) *Fifth precinct.* All that part of the City of Anoka lying within the boundaries of the following described line: beginning at the intersection of the centerline of South Street and the easterly city limit; thence westerly along the centerline of South Street to the intersection of the centerline of South Street to the intersection of the centerline of Fifth Avenue; thence northerly along the centerline of Fifth Avenue to the intersection of the centerline of East Main Street; thence easterly along the centerline of East Main Street to the easterly city limits and there terminating.
- (f) *Sixth precinct.* All that part of the City of Anoka lying within the boundaries of the following described line: beginning at the intersection of the northerly city limits and the centerline of the Rum River; thence southerly along the centerline of the Rum River to the intersection of the westerly extension of the centerline of Madison Street; thence easterly along the westerly extension of the centerline of Madison Street and the centerline of Madison Street to the intersection of the centerline of Fifth Avenue; thence northerly along the centerline of Fifth Avenue to the intersection of centerline of East Main Street; thence easterly along the centerline of East Main Street to the easterly city limits; thence northerly and westerly along the city limit line to the intersection of the centerline of U.S. Highway No. 10; thence westerly and northwesterly along the centerline of U.S. Highway No. 10 to the intersection of the centerline of Seventh Avenue; thence northerly along the centerline of Seventh Avenue to the northerly city limits and there terminating.
- (g) *Seventh precinct.* All that part of the City of Anoka lying within the boundaries of the following described line: beginning at the easterly city limits and the intersection of the centerline of U.S. Highway No. 10; thence west and northwesterly along the centerline of U.S. Highway No. 10 to the intersection of the centerline of Seventh Avenue; thence northerly along the centerline of Seventh Avenue to the intersection of the centerline of Sunny Lane; thence easterly along the centerline of Sunny Lane to the intersection of the centerline of Aldrich Avenue; thence southerly along the centerline of Aldrich Avenue to the intersection of the centerline of the continuation of Sunny Lane; thence easterly along the centerline of Sunny Lane to the intersection of the centerline of 12th Avenue; thence southerly along the centerline of 12th Avenue to the intersection of the centerline of Roosevelt Street; thence easterly along the centerline of Roosevelt Street to the easterly city limits and there terminating.

- (h) *Eighth precinct.* All that part of the City of Anoka lying northerly and easterly of the following described line: beginning at the easterly city limits and the intersection of the centerline of Roosevelt Street; thence westerly along the centerline of Roosevelt Street to the intersection of the centerline of 12th Avenue; thence northerly along the centerline of 12th Avenue to the intersection of the centerline of Sunny Lane; thence westerly along the centerline of Sunny Lane to the intersection of the centerline of Aldrich Avenue; thence northerly along the centerline of Aldrich Avenue to the intersection of the centerline of the continuation of Sunny Lane; thence westerly along the centerline of Sunny Lane to the intersection of the centerline of Seventh Avenue; thence northerly along the centerline of Seventh Avenue to the northerly city limits and there terminating.

CHAPTER 34. FIRE PREVENTION AND PROTECTION

ARTICLE I. **Fire Code**

Section 34-1. Minnesota Uniform Fire Code.

There is hereby adopted by the City Council for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Code, adopted by the state pursuant to Minn. Stats. § 299F.001.

State law references-- Adoption by reference, Minn. Stats. § 471.62.

Section 34-2. Definitions.

Municipality. Wherever the word "municipality" or "city" is used in this Chapter or in the Fire Code, it shall be held to mean the City of Anoka.

Fire Chief. Wherever the words "fire chief" are used in this Chapter or in the Fire Code, they shall be held to mean the Fire Chief for the City of Anoka.

Section 34-3. Bureau of fire prevention; reporting.

A report of the bureau of fire prevention shall be made annually and transmitted to the City Manager. It shall contain all proceedings under this code, with such statistics as the Fire Chief may wish to include therein; the fire chief shall also recommend any amendment to the code which, in his judgment, shall be desirable.

Section 34-4. Establishment of limits of districts in which storage of flammable liquids in outside aboveground tanks is to be prohibited.

- (a) The limits referred to in Section 7902.2.2.1 of the Fire Code in which storage of flammable liquids in outside aboveground tanks is prohibited are hereby established as follows: All districts other than M-1 Light Industrial and M-2 General Industrial.
- (b) New bulk tanks or terminals for flammable and combustible liquids may be constructed within any fire zone provided they meet fire code and local zoning requirements. Underground tanks may be permitted in the B-1 Highway Business District, B-2 Shopping Center District and Main Street Mixed Use District, West Main Sub-district, provided they meet Fire Code and local zoning requirements.

Section 34-5. Permit fees.

Wherever this chapter or the Fire Code requires permits for materials, processes, occupancies, or activities, applicable permit fees shall be determined by the City Council.

Sections 34-6 thru 34-19. Reserved.

Section 34-20. Fee for fireworks permit.

The fee to be paid to the city for a fireworks permit issued pursuant to Minn. Stats. § 624.21 et seq. shall be as established by the City Council.

Section 34-21. Accumulations of rubbish, boxes, etc., in alleys, sidewalks, etc.

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No person shall allow to remain longer than twelve (12) hours or overnight, in any alley, or on any sidewalk or premises, within 30 feet of any building, any empty boxes, barrels, rubbish, trash, waste paper, excelsior or other combustible materials.

Sections 34-22 thru 34-29. Reserved.

CHAPTER 34. FIRE PREVENTION AND PROTECTION

ARTICLE II. Open Burning

***State law reference--Open burning, Minn. Stats. § 88.171.**

Section 34-30. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Burning permit is a permit issued by the City Fire Chief or designee authorizing fires exempted from the general provisions of this article and setting conditions therefore.

Fireplace means an outdoor structure intended to be used to contain an outdoor fire, constructed of brick, concrete, stone, metal or other non-combustible materials, sufficient in design to adequately contain a fire, but does not include commercially available portable charcoal or propane grills used principally for the cooking of food.

Open fire or *Open burning* means the burning of matter, whether concentrated or dispersed, which is not contained within a fully enclosed fireplace, structure or vehicle, from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney.

Starter fuels means dry, untreated, unpainted wood or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may also be used to start an open fire.

Wood means dry, clean fuel only such as twigs, branches, limbs, "presto logs," charcoal, cord wood or untreated dimensional lumber. The term "wood" does not include wood that is green, contains leaves or needles, or is rotten, wet, oil soaked or treated with paint, glue or preservatives. Clean pallets may be used for outdoor fireplace burning when cut into three-foot lengths.

Section 34-31. Open Burning

- (a) *Prohibited.* Except as otherwise permitted by this article, all open burning is prohibited in the City.
- (b) *Exemptions.* The following types of open burning shall be exempt from the prohibition of subsection (a) of this section:
 - (1) Outdoor fireplace burning subject to the conditions set forth within this chapter;
 - (2) Fires purposely set under the supervision of the City fire department for the instruction and training of firefighting personnel; and
 - (3) Fires for which a burning permit has been obtained.

Section 34-32. Burning Ban or Air Quality Alert

No fireplace burning or open burn will be permitted when the City or the state department of natural resources has officially declared a burning ban due to potential hazardous fire conditions or when state pollution control agency has declared an air quality alert.

State law reference--Similar provisions, Minn. Stats. § 88.171, subd. 9.

Section 34-33. Outdoor Fireplace Burning

- (a) Outdoor fireplace burning shall comply with the following requirements:
 - (1) Burning shall only be allowed between 9:00 a.m. and 12:00 midnight during any day of the week.
 - (2) The fire shall not exceed three feet in diameter and a flame height of approximately three feet.
 - (3) Only clean wood or charcoal may be burned. No burning of trash, leaves or brush is allowed.
 - (4) Only starter fluids as defined in this chapter may be used to ignite the fire.
 - (5) The fire must be constantly attended and supervised by a person knowledgeable in the use of fire-extinguishing until the fire has been totally extinguished.
 - (6) Fire-extinguishing equipment such as buckets, shovels, or garden hoses, ~~are~~ must be readily available.
 - (7) Burning may not be conducted within fifteen (15) feet of a structure, property line or combustible materials.
 - (8) Any conditions that could cause a fire to spread to within 15 feet of a structure or property line shall be removed or eliminated prior to ignition. Any accumulation of combustible materials shall be removed to a location at least 15 feet up-wind from the fire.
 - (9) Outdoor fireplace burning must be contained in a fireplace.

Sections 34-34 thru 34-49. **Reserved.**

Section 34-50. **Issuance.**

Except for permits issued by the State Department of Natural Resources for fire training and permanent burn sites, the City Fire Chief or designee may issue a burning permit for any of the following:

- (a) Fires set for the elimination of a fire hazard which cannot be abated by any other practical means.
- (b) Fires purposely set for forest and game management purposes when no other alternative methods are practical.
- (c) The burning of trees, brush, grass and other vegetable matter in the clearing of land, the maintenance of street, roadway, highway or railroad right-of-way and in accepted agricultural land management practices where chipping, composting, landscaping or other alternative methods are not practical.
- (d) The disposal of diseased trees generated on-site, diseased or infected nursery stock or diseased beehives.
- (e) Ground thawing for utility repair and construction.

Section 34-51. **Procedure for Permit Issuance.**

- (a) Application for a burning permit shall be submitted to the City Fire Chief on a form prescribed by the City.
- (b) The Fire Chief, or designee, shall review the application to ensure compliance with the provisions of this section and any applicable state laws and/or regulations.
- (c) The Fire Chief, or designee, may inspect the proposed burn site on such occasions and at such time as is deemed necessary to adequately review the application. Submission of the application shall constitute authorization for the Fire Chief, or designee, to enter the premises for this purpose.
- (d) Within five (5) business days, excluding Saturdays, Sundays and legal holidays, after receipt of the application, the Fire Chief, or designee, shall either grant or deny the application.

Section 34-52.

Denial of Permit.

- (a) Application for a burning permit may be denied for any one of the following reasons:
 - (1) The proposed fire or burn site does not meet the requirements of this section.
 - (2) The Fire Chief, or designee, determines that there is a practical alternative method of disposal of the material.
 - (3) The Fire Chief, or designee, determines that the fire would result in a pollution or nuisance condition.
 - (4) The Fire Chief, or designee, determines that the burn cannot be safely conducted and no plan has been submitted to adequately address the safety concerns.
- (b) The denial of any application shall be in writing and shall state the reasons for the denial.
- (c) Any person aggrieved by the denial of a burning permit may appeal that decision to the City Council by submitting a written request or appeal to the Fire Chief's office within ten days after the date of the denial. The Fire Chief's office shall submit the appeal request to the City Manager for placement on the next available agenda.

Section 34-53.

Prohibited Materials.

- (a) No permit may be issued for the open burning of oils, petrol 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 permit shall be issued for the open burning of hazardous waste or salvage operations, solid waste generated from an industrial or manufacturing process or from a service or commercial establishment, or building material generated from demolition of commercial or industrial structures, or discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

State law reference--Prohibited materials, Minn. Stats. § 88.171, subd. 2.

Section 34-54.

Responsibilities of Permit Holder.

The holder of any permit shall be responsible for the following:

- (a) Having a valid permit in possession at the burn site at all times during the burn.
- (b) Prior to starting the burn, confirming that no burning ban or air quality alert is in effect.
- (c) Constant attendance by the permit holder or competent representative during a burn event.
- (d) Availability at the burn site of appropriate communication and fire suppression equipment as required by the permit or any fire safety plan approved by the City as part of the permit process.
- (e) Not allowing the fire to smolder.
- (f) Being sure that the fire is completely extinguished before the permit holder or representative leaves the site.
- (g) All costs incurred as a result of the burn including, but not limited to, fire suppression, administrative fees, property damage and personal injuries.

Section 34-55.

Revocation of Permit.

An officer of the state department of natural resources, the City Fire Chief or designee may revoke any burning permit for appropriate reasons including, but not limited to:

- (a) A fire hazard exists or develops during the course of the burn.
- (b) Pollution or nuisance conditions develop during the course of the burn.
- (c) The fire smolders with no flame present.
- (d) Any of the conditions of the permit are violated during the course of the burn.

Section 34-56.

Penalties.

- (a) Any person who shall violate any of the provisions of the Fire Code adopted in this chapter or fail to comply therewith, or shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specification or plans submitted and approved 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 City Council or by a Court competent jurisdiction within the time fixed herein, shall for each and every such violation and non-compliance, respectively be guilty of a misdemeanor.
- (b) The imposition of one penalty for any violation shall not excuse the violations 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 ten (10) days that prohibited conditions exist or are maintained shall constitute a separate offense.

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- (c) The application of the penalties set forth in this chapter shall not prevent the forced removal of prohibited conditions based upon other City ordinance provisions.

CHAPTER 38; ENVIRONMENTAL

ARTICLE I. In General

Section 38-1. Unreasonable noise.

Purpose. It is the intent of the City Council by means of this section to protect the public health, safety, and general welfare by restricting activities which emit noise that unreasonably annoys, disturbs, injures, or endangers the comfort, health, peace, safety, or welfare of any person or persons, or precludes their enjoyment of property, or adversely affects their property's value.

- (b) *Definitions.* Words and phrases defined in this section have, when used in this ordinance, the meanings given below. Any other word or phrase used in this ordinance, and defined in regulations of the Minnesota Pollution Control Agency Noise Pollution Control Rules Chapter 7030, has the meaning given in those regulations.
- (1) L10. Means the sound level, expressed in decibels (dBA) which is exceeded 10 percent of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute and using test procedures approved by the police department.
- (2) L50. Means the sound level, expressed in decibels (dBA) which is exceeded 50 percent of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4, of the American National Standards Institute and using test procedures approved by the police department.
- (3) Person. Means an individual, firm, partnership, corporation, trustee, associate, the state and its agencies and subdivisions, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, "person" shall include employees and licensees.
- (c) *Noise Restrictions.*
- (1) Night Restrictions. The following shall be prohibited between the hours of 10 p.m. and 7 a.m.
- a. Participation in noisy parties or gatherings. No person shall participate in any party or gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or repose of another person at any time. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.
- b. Domestic Power Equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment. Snow removal equipment is exempt from this provision.
- c. Heavy Machinery Use. No person or persons shall engage in or permit heavy machinery activity involving the use of any kind of electric, diesel or gas-powered machine or other power.
- d. Construction Activity. No person shall engage in or permit construction activities involving any type of equipment, mechanical or non-mechanical.

- (2) Day Restrictions. The following shall be restricted between the hours of 7 a.m. and 10 p.m.
- a. No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in Table 1 for the receiving land usage category specified when measured at a point of normal human activity of the receiving land use.

Table 1. Sound Level by Receiving Land Use (dBA)

Land Use Districts	Day (7:00 a.m.- 10:00 p.m.)	
	L10	L50
Residential	65	60
Commercial	70	65
Industrial	80	75

- (d) *Permitted Noise.* The following acts or noises are permitted between the hours of 10:00 p.m. and 7:00 a.m. daily:

- (1) Equipment used in connection with special events or activities which are authorized, sponsored, permitted or approved by the city council or City Manager, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;
- (2) Church bells, chimes or carillons, school bells, or emergency civil defense warning signals;
- (3) Anti-theft devices;
- (4) Machines or devices for the production of sound on or in authorized emergency vehicles.
- (5) Situations wherein immediate work is necessary to restore property to a safe condition or when immediate work is required to protect persons or property from eminent exposure to danger are exempt from operational limits.
- (6) Equipment used in connection with maintenance, repair, restoration and construction activities at Green Haven Golf Course; including, but not limited to, lawnmowers and leaf blowers.

- (e) *Procedure to Measure Sound.* When measuring sound between the hours of 7 a.m. and 10 p.m., the following procedure shall be followed to accurately measure the sound.

- (1) Measurement location. Measurement of sound must be made at or within the applicable NAC at the point of human activity which is nearest to the noise source. All measurements shall be made outdoors.
- (2) Equipment specifications. All sound level measuring devices must meet Type O, I, II, or S specifications under American National Standards Institute S1.4-1983.
- (3) Calibration. All sound level measuring devices must, at a minimum, be externally field calibrated before and after monitoring using a calibration device of known frequency and sound pressure level.
- (4) Measurement procedures. The following procedures must be used to obtain representative sound level measurements:
- a. Measurements must be made at least three feet off the ground or surface and away from natural or artificial structures which would prevent an accurate measurement.

- b. Measurements must be made using the A-weighting and fast response characteristics of the sound measuring device as specified in American National Standards Institute S1.4-1983.
 - c. Measurements must not be made in sustained winds or in precipitation which results in a difference of less than ten decibels between the background noise level and the noise source being measured.
 - d. Measurements must be made using a microphone which is protected from ambient conditions which would prevent an accurate measurement.
- (5) Data documentation. A summary sheet for all sound level measurement shall be completed and signed by the person making the measurements. At a minimum, the summary sheet shall include:
- a. date;
 - b. time;
 - c. location;
 - d. noise source;
 - e. wind speed and direction;
 - f. temperature;
 - g. humidity;
 - h. make, model, and serial number of measuring equipment;
 - i. field calibration results;
 - j. monitored levels; and
 - k. site sketch indicating noise source, measurement location, directions, distances, and obstructions.
- (f) *Public Nuisance.* It shall be unlawful for any person to make, continue, permit or cause to be made or continued any loud, unnecessary, or unusual noise or any noise within the City which would be likely to annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of a reasonable person of ordinary sensibilities.
- (1) The following acts constitute a presumptive public nuisance.
- a. Horns, signaling devices, etc. The continual sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle for a period of at least 15 seconds even if interrupted by short gaps in sound, on any street, public place, or private property within the City except as a danger warning;
 - b. Radios, phonographs, etc. The use, operation, or permitting the playing, use, or operation of any radio receiving set, musical instrument, phonograph, or other machine or device for the amplification, production or reproduction of sound at any time in such manner as to be likely to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities who might be in its vicinity or between the hours of 10:00 P.M. and 7:00 A.M. at such a volume so as to be plainly audible at the real property boundary of the building, structure, residence or other area in which the device is located.
 - c. Amplified sound from a motor vehicle. The use, operation or permitting the playing, use or operation of any radio receiving set, musical instrument, or other machine or device for the amplification, production or reproduction of sound within a motor vehicle at a volume where it is audible by any person from a distance of fifty (50) feet or a distance of five (5) motor vehicle lengths or more from the source. Where the motor vehicle's owner is present that person is responsible for any violation of this subsection. If the owner is not present, the

driver or person in control of the vehicle is responsible for any violation of this subsection. In addition to an owner or driver, any person who controls or assists with the amplification, production or reproduction of the sound in violation of this subsection is an additional responsible party.

- d. Loud speakers, amplifiers for advertising, etc. The use, operation, or permitting the playing, use, or operation of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the production or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- e. Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or loud singing on the public streets within fifty (50) feet of a residential dwelling unit or sleeping facility, between the hours of 10:00 P.M. and 7:00 A.M.
- f. Defective vehicle, loads or noisy vehicle operation. The non-emergency use or operation of any automobile, motorcycle, scooter, recreational vehicle, or other type of motor vehicle, which by its out-of-repair condition, manner of loading or operation at such speeds or in such manner as to create loud and unnecessary grating, grinding, squealing of tires, rattling, or other noise so as to be likely to annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of a reasonable person of ordinary sensibilities in its vicinity.
- g. Engine-braking. The use of a compression engine brake device in non-emergency situations to slow the speed of an internal combustion engine powered motor vehicle on City streets or highways without an exhaust muffler in good working order or other device that is effective in preventing loud engine roaring, staccato popping or growling resulting from the use of the compression engine brake.

- (g) *Enforcement.* Any person who violates the provisions of this section shall be guilty of a misdemeanor as defined by State law.

Section 38-2 through 30-29. Reserved.

CHAPTER 38; ENVIRONMENTAL

ARTICLE II. **Nuisances**

State law reference--Power to define, prevent and abate nuisances, Minn. Stats. §§ 410.33, 412.231, subd. 23.

Section 38-30. Definitions.

No person shall maintain or permit to be maintained any of the following public nuisances:

- (a) Any condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (b) Any condition which interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (c) Any other act or omission declared by law or this Code to be a public nuisance.

Section 38-31. 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 punchboards or gambling activity not licensed or otherwise authorized by City Ordinance.
- (b) All places where intoxicating liquors are manufactured, sold, bartered, possessed or given away in violation of the law.
- (c) Knowingly and intentionally urinating or defecating on or into any street, sidewalk, lane, alley, parking lot/ramp or any other public ground, or upon any private ground exclusive of structures containing toilet facilities.

Sec. 38-32. Public nuisances affecting peace and safety--Enumeration.

The following are public nuisances affecting peace and safety:

- (a) All trees, hedges, billboards, or other obstructions, which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
- (b) All limbs of trees which are less than eight feet above the surface of any street, as provided by this Code or other Ordinance.
- (c) All wires which are strung less than 15 feet above the surface of the ground.
- (d) All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise, which are so situated as to endanger the safety of the public.
- (e) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by this Code or other ordinance.
- (f) All use or display of fireworks, except as provided by this Code or other Ordinance or as authorized by the City.

- (g) All unnecessary noises and annoying vibrations.
- (h) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, right-of-ways, sidewalks or public grounds, except under such conditions as are provided by this Code or other Ordinance.
- (i) Communication aerials or antennae erected or maintained in any manner except as provided by this Code or other law, or as authorized by the City
- (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 free use of the streets or sidewalks, except as authorized by the City.
- (k) All hanging signs, awnings and other similar structures over the streets or sidewalks, not constructed and maintained as provided by this Code or other Ordinance, or so situated as to endanger public safety.
- (l) The accumulation of rainwater, ice or snow, escaping from any private property upon and entering upon or across any street or sidewalk or other public property.
- (m) All barbed wire fences which are located within three feet of any public sidewalk.
- (n) All dangerous, unguarded machinery, in any public place or so situated or operated on private property as to attract the public.
- (o) The distributing of handbills, flyers, or solicitation materials, except as provided by this Code or other Ordinance.
- (p) All buildings or businesses carried on within the City contrary to the provisions of the zoning regulations or amendments thereof.
- (q) The accumulation of papers, boxes, trash or rubbish, unless kept in a closed receptacle.
- (r) The accumulation of any litter or garbage upon the premises or permitting the same to remain on the premises.
- (s) All other conditions or things which are liable to cause injury to the person or property of anyone.
- (t) The keeping of any offensive, nauseous substance or liquid at any place from whence the stench thereof may reach the street, avenue, alley, lane or public land or any dwelling. Permitting any litter or garbage to remain upon the premises.
- (u) The accumulation of discarded or unused machinery, household appliances, automobile bodies, lumber, wood, trash, debris or other material, or the rank growth of vegetation among the items so accumulated, in a manner conducive to the harboring of rats, mice, snakes, mosquitoes or vermin, or in a manner creating fire, health, or safety hazards.
- (v) Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or any other person coming on to the premises where it is located.
- (w) The obstruction to the free flow of water in a natural waterway or public street drain, gutter, or ditch through accumulation of trash or other materials.

- (x) The placing, depositing, or throwing of any litter, debris, garbage, refuse or trash upon any public property, public right-of-way, or upon adjacent private property without using a proper receptacle or without proper authority.
- (y) The parking, keeping, storage or accumulation of junk motor vehicles upon any private land or premises owned, occupied or controlled by any person or legal entity unless authorized by this Code or other Ordinance. No person shall park, keep or place any such junk vehicle upon land not owned by such person. For purposes of this section, a junk vehicle means any motor vehicle as defined in Minn. Stat. § 169.011, subd 42, part of a motor vehicle, or former motor vehicle stored in the open which is (1) unusable or inoperable because of lack of or defects in component parts; (2) unusable or inoperable because of damage from collision, deterioration, or otherwise; (3) beyond repair, and therefore, not intended for future use as a motor vehicle; (4) being retained on the property of possible use of salvageable parts; or (5) is not properly and currently licensed for operation within the State of Minnesota.
- (z) The existence of any structure or part of any structure which due to fire, wind, other natural disaster, physical deterioration, or any other cause, is no longer habitable as a dwelling or is no longer useful for any other purpose for which it may have been intended.
- (aa) The existence of any vacant dwelling, garage, or other outbuilding, or structure, that is not securely locked, windows glazed, securely boarded up or otherwise protected to prevent entry.
- (bb) The existence of any noxious or poisonous vegetation such as poison ivy, ragweed or other poisonous plants, or any weeds, grass, brush or plants which are a fire hazard or which are otherwise detrimental to the health or appearance of the neighborhood.

Section 38-33.

Same--Prohibited.

Any person who shall knowingly cause, create, permit or maintain any nuisance, shall be guilty of a misdemeanor.

State law reference--Public nuisances prohibited, Minn. Stats. § 609.74.

Sec. 38-34.

Public nuisances affecting health.

The following are public nuisances affecting health:

- (a) Exposed accumulation of decayed or unwholesome food or vegetable matter.
- (b) All diseased animals.
- (c) Pools of stagnant water.
- (d) Animal carcasses not buried or destroyed.
- (e) The accumulation of trash, ashes, refuse, manure, or debris of any nature or description.
- (f) Privy vaults or 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 or 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 and sources.
- (h) All noxious weeds, including all weeds defined by the State Commissioner of Agriculture, to be injurious to public health, roads, crops, livestock, and other property.

- (i) Dense smoke, noxious fumes or odors, gas and soot, or cinders, in unreasonable or unlawful quantities.
- (j) Intentional public exposure of persons having a contagious disease.
- (k) The placing of the contents of any cesspool, septic tank, privy vault, or garbage can upon the surface of any public or private property.

Section 38-35.

Enforcement.

The police department, building department, and other such officers, employees, or agents as the City Council or City Manager may designate, shall enforce the provisions of this Ordinance. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

Section 38-36.

Notice.

Upon ascertaining that a public nuisance may exist, authorized City officers, employees or agents, shall serve a notice upon a person suspected or known to have caused or permitted the nuisance and/or upon the owner of the property upon which the nuisance is located. The notice shall be given according to Chapter 1, Article II, Administrative Citations and Penalties.

Section 38-37.

Hearing; abatement order; collection of costs.

- (a) *General abatement.* Whenever the designated officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify the owner and any occupant of the premises according to Chapter 1, Article II of this Code and shall proceed with abatement under the same provisions.
- (b) *Emergency abatement.* When the designated officer charged with enforcement determines that a nuisance constitutes a serious and imminent danger to the public safety or health, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner and any occupant of the property. The officer shall immediately thereafter notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail.
- (c) *Costs of abatement.* All costs of a general or emergency abatement may be assessed and collected as an unpaid special assessment against the subject property pursuant to Minn. Stat. § 429.101. The City may also seek to recover such costs in an action against the owners, occupants or other responsible parties. The sanctions and remedies herein are not exclusive and the City may also proceed by any other legal remedy including injunction, declaratory action, criminal penalties or otherwise.

Section 38-38 through 30-60.

Reserved.

CHAPTER 38; ENVIRONMENTAL

ARTICLE III. Subsurface Sewage Treatment Systems (SSTS)*

***State law references--**Individual sewage treatment systems, Minn. Stats. § 115.55 et seq.; local ordinances regulating individual sewage treatment systems, Minn. Stats. § 115.55, subd. 2.

Section 38-91. Purpose, Applicability, and Structure.

- (a) Purpose: The purpose and intent of this article is to establish standards for the design, location, construction, operation, and maintenance of Subsurface Sewage Treatment Systems. For the purposes of this Article, “Subsurface Sewage Treatment System” or “System”(both of which referred to interchangeably herein as “SSTS”) means a sewage treatment system, or part thereof, that uses subsurface soil treatment and disposal, or a holding tank, serving a dwelling, other establishment, or a group thereof.
- (b) Applicability. This ordinance shall apply to those sites or facilities that are licensed, permitted or otherwise regulated by City Ordinance. The sewer provisions of this ordinance shall also apply to any premises in the City that are not served by a sewage treatment system permitted by the Minnesota Pollution Control Agency.
- (c) Authority. This ordinance is adopted pursuant to the authorization and requirements contained in Minnesota Statutes Chapters 145.A.05; 115.55, and Minnesota Rules Chapter 7082.

Section 38-92. General Provisions.

- (a) Treatment Required. All sewage generated, in unsewered areas, shall be treated and dispersed by an approved SSTS or a system permitted by the Minnesota Pollution Control Agency.
- (b) Administrative Policy and Procedures. The provisions of Chapter 1, Article II of the City Code apply to the administration and enforcement of this Article, unless otherwise expressly provided for in this Article.
- (c) Administration. This Article shall be administered by the Anoka City Building Inspections Department, or its designee. The term “Department,” where used in this ordinance shall mean the Anoka City Building Inspections Department and/or its designee.
- (d) Compliance. No person shall cause or permit the location, construction, alteration, extension, conversion, operation or maintenance of an SSTS, except in full compliance with the provisions of this Article.
- (e) Conditions. Violations of any condition imposed by the City on a license, permit or variance, shall be subject to the penalty provisions set forth in this Article.
- (f) Site Evaluation, System Design, Construction, Inspection, and Servicing. Site evaluation, and System design, construction, inspection and System services shall be performed by Minnesota Pollution Control Agency licensed SSTS businesses or qualified employees of local governments, or persons exempt from licensing pursuant to Minnesota Rules 7083.0700. For lots platted after April 1, 1996, a design shall evaluate and locate space for a second soil treatment area.
- (g) Inspection. No part of an SSTS shall be covered until it has been inspected and approved by the Department. If any part of the System is covered before being inspected and approved as herein provided, it shall be uncovered upon the direction of the Department. The Department shall cause such inspections as are necessary to determine compliance with this Article. It shall be the responsibility of the permittee to notify the Department that the System is ready for inspection. If

the integrity of the System is threatened by adverse weather if left open, and the Department is unable to conduct an inspection, the permittee may, after receiving permission from the Department, document compliance with this Article by photographic means that show said compliance and submit that evidence to the Department prior to final approval being sought.

- (h) Compliance Inspection Required. An SSTS compliance inspection is required:
 - (1) For a new or replacement SSTS.
 - (2) When altering an existing structure to add a bedroom.
 - (3) When a parcel having an existing System undergoes development, subdivision or split.
- (i) Imminent Public Health and Safety Threat; Failing System; and Surface Discharge.
 - (1) An SSTS which poses an imminent threat to public health and safety shall be immediately abated according to instructions by the Department and be brought into compliance with this Article in accordance with a schedule established by the Department, which schedule shall not exceed ten (10) months.
 - (2) A failing System, or an SSTS that is not protective of the groundwater, shall be brought into compliance within twenty-four (24) months after receiving notice from the Department.
 - (3) An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System (NPDES).
- (j) Conflict Resolution. For SSTS systems regulated under this Article, conflicts and other technical disputes over new construction, replacement and existing Systems will be managed in accordance with Anoka City Code.
- (k) Septic Tank Maintenance. The owner of a sewage (septic) tank, or tanks, shall regularly, but not less frequently than every three (3) years (unless approved by the Department due to limited use), inspect the tank(s) and measure the accumulations of sludge and scum. If the System is pumped, measurement is not needed. The owner shall remove and sanitarily dispose of septage whenever the top of the sludge layer is less than twelve (12) inches below the bottom of the outlet baffle or the bottom of the scum layer is less than three (3) inches above the outlet baffle. Removal of septage shall include complete removal of sludge and scum.
- (l) Non-Complying Systems. Existing Systems which are non-complying, but not an imminent health or safety threat, failing, or discharging to surface, may continue in use so long as the use is not changed or expanded. If the use changes or is expanded, the non-complying elements of the existing System must be brought into compliance.
- (m) Non-Complying Work. New SSTS construction that is non-compliant, or other work on a System that is non-complying, must be brought into compliance with this Article in accordance with a schedule established by the Department, which schedule shall not exceed seven (7) days unless the Department finds extenuating circumstances.
- (n) Change in Use. A Certificate of Compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the System has been changed or altered.
- (o) Setback Reduction. Where conditions prevent the construction, necessary alteration and/or repair of an SSTS on an existing developed parcel of real property, the Department may reduce property line and building setbacks and System sizing requirements, provided said reduction does not endanger or unreasonably infringe on adjacent properties and with the concurrence of the affected properties.

- (p) Floodplain. An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted provided that the design complies with this Article and all of the rules and statutes incorporated by reference.
- (q) Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency (EPA).

Section 38-93. Standards adopted.

- (a) Minnesota Rules Adopted. Minnesota Rules, Chapters 7080 and 7081 that are in effect on the date of passage of this Article, related to SSTS, are hereby adopted by reference and made a part of this ordinance as if fully set forth herein.
- (b) Rules Amended. The rules adopted in Section 38-93(a) are amended as follows:
1. Compliance Inspection – 15 Percent Vertical Separation Reduction. Minnesota Rules 7080.1500 Subp. 4D is amended to allow fifteen (15) percent reduction of vertical separation (separation distance no less than 30.6 inches) which may be determined to be compliant for existing Systems to account for settling and variable interpretation of soil characteristics.
- (c) Holding Tanks. Holding tanks may be allowed for the following applications: as replacement to a failing existing System, an SSTS that poses an imminent threat to public health and safety, or for an existing lot in which an SSTS cannot feasibly be installed and the Department finds extenuating circumstances.
- (d) System Abandonment. An SSTS, or component thereof, that is no longer intended to be used, must be abandoned in accordance with the adopted standards of this Article.

Section 38-94. Permits.

- (a) Permit Required. No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any SSTS without first obtaining a permit for such work from the Department. No person shall construct, alter, extend, convert, or modify any structure that is or will utilize an SSTS without first obtaining a permit.
- (1) All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing. Permit applications shall be submitted by the person doing the SSTS construction, repairs and maintenance on forms provided by the Department, and accompanied by required site and design date, and permit fees.
 - (2) Permits shall only be issued to the person doing the SSTS construction, repairs and/or maintenance.
 - (3) Permit applications for new and replacement SSTS shall include a management plan for the owner that includes a schedule for septic tank maintenance.
 - (4) A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of System components, or otherwise change the original System's design, layout or function.
- (b) Operating permit. An operating permit shall be required of all owners of new holding tanks, Type IV and V systems; MSTS and other SSTS that the Department has determined requires operational oversight.

- (1) Application. Application for an operating permit shall be made on a form provided by the Department.
- (2) Holding Tanks. The owner of holding tanks installed after the effective date of this Article shall provide the Department with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

State law reference--Time limits to approve or deny written requests relating to septic system, MS. § 15.99.

Section 38-95. Violations and penalties.

- (a) Misdemeanor. Any person who fails to comply with the provisions of this Article may be charged with a misdemeanor, and upon conviction thereof, be subject to the penalties for such an offense as provided by law. Each day during or on which a violation occurs or continues shall constitute a separate offense.
- (b) Injunctive Relief. In the event of a violation or a threat of a violation of this Article, the Department may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations; and the City attorney may institute a civil action.
- (c) Civil Action. In the event of a violation of this ordinance, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the City attorney may institute such action.

State law reference--Licensing of septic tank contractors, Minn. Stats. § 115.56.

Section 38-96. Fees.

Fees for permits required under this section shall be according to a fee schedule adopted by ordinance of the City Council.

Section 38-97. Unlawful Discharges.

- (a) Discharge of human and animal wastes. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or objectionable waste.
- (b) Discharges to natural outlets. It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any wastewater or other polluted waters.

Section 38-98. Required Connection to Public Sewer.

- (a) Connection to sewer system required. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required, at the owner's expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article within one year after the date of due notice to do so.
 1. At such time as a public sewer becomes available to a property served by a nonconforming private sewage treatment system, a direct connection shall be made to the public sewer within thirty (30) days.
 2. At such time as a public sewer becomes available to a property served by a conforming

private sewage treatment system, a direct connection shall be made to the public sewer when a replacement private sewer system is required or upon site development.

3. Failure to connect to public system. If such connection is not made pursuant to this Article, the city shall enter into a contract with a licensed contractor to have the connection made, and the cost shall be assessed to the property taxes, unless authorized by the City Council to do otherwise.
- (b) Private systems permitted. Where a public sewer is not available under Section 38-97 (c) of this Article, the building sewer shall be connected to a private sewage treatment system as regulated by this Article and the State Plumbing code.

State law reference--Inspections, Minn. Stats. § 115.55, subd. 5.

Section 38-99 through 38-129. Reserved.

CHAPTER 38; ENVIRONMENTAL

ARTICLE V. Surface Water Management

Section 38-173. Purpose and Findings.

These regulations are adopted for the following purposes:

- (a) To promote the public health, safety and general welfare of the citizens of Anoka without preventing the reasonable development of land;
- (b) To encourage site development on public and private land including clearing, excavation, and filling in such a manner as to minimize hazards to life, health and property;
- (c) To preserve and enhance the City's physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees and ground cover;
- (d) To minimize surface water runoff and diversion which may contribute to flooding;
- (e) To reduce siltation in the City's rivers, ponds, storm sewer systems, and public roadside improvements;
- (f) To promote building and site planning practices that are consistent with the City's natural topography, soils, and vegetative features while at the same time recognizing that certain factors such as disease, danger of fallings, proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain ground trees and ground cover;
- (g) To ensure prompt development, restoration and replanting and effective erosion control of property after clearing and grading; and
- (h) To implement the goals and policies of the City's Surface Water Management Plan and the City's National Pollution Discharge Elimination System (NPDES) permit.

Section 38-174. Statutory Authority.

This Chapter is adopted pursuant to Minnesota Statutes 462.351, as amended.

Section 38-175. Definitions.

The following definitions of words, terms, and phrases apply in this Chapter of the Code. References hereinafter to "Section" are, unless otherwise specified, references to sections of this Chapter.

Applicant means any person who wishes to conduct land disturbing activities.

Clearing means any activity, which removes the vegetative cover and/or trees, including, but not limited to, root mat material and/or topsoil removal.

Earth Material means any rock and/or natural soil exclusive of any decomposable material.

Earthwork means excavation, filling, compaction and grading.

Erosion means the wearing away of the ground surface as a result of movement of wind, water, and/or ice.

Excavation means the removal by any means whatsoever of soil, rocks, minerals, mineral substances, or organic substances, other than vegetation, from water or land, on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

Fill or backfill means a depositing or stockpiling of earth material.

Finish or final grade means the final elevation of the ground level after development.

Grade means the vertical location of the ground surface to a predetermined elevation datum (feet above sea level).

Grading means any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

Ground cover means trees less than six inches in diameter, measured four and ½ feet above the ground (DBH – diameter at breast height) and other grasses or other plants and landscaping grown to keep soil from being blown or washed away.

Land disturbing activity means any land change, including but not limited to, clearing, grading, excavating, transporting and filling of land, which may result in soil erosion from water or wind and the movement of sediments into waters or onto adjacent properties.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative or any other legal entity.

Rough grade means the stage of construction at which the grade approximately conforms to the approved plan.

Sediment means deposited silt that is being or has been moved by water or ice, wind, gravity, or other means of erosion.

Significant Tree means any existing, healthy, living tree eight (8) inches DBH (diameter at breast height) or greater in size.

Site means a specific location on which land disturbing activities are being conducted.

Subdivision means the division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land.

Structure means anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

Surface water or storm water means that portion of precipitation (rain falling or snow melting) that flows across a surface to the storm water system or receiving waters.

Tree means any self supporting woody plant characterized by one main stem or trunk of at least six inches in diameter or a multi-stemmed trunk system with a definite crown, maturing at a height of at least six feet above ground level.

Wetlands means lands that are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface of the land or is covered by shallow water. For purposes of this Ordinance, wetlands must have the following three attributes:

- (a) Have a predominance of hydric soils;
- (b) Are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (c) Under normal circumstances, support a prevalence of such vegetation.

Section 38-176.

Applicability.

This Chapter applies to all land, public or private, located within the City of Anoka.

Section 38-177.

Land Disturbance Permit (LDP) and Land Disturbance and Erosion Control Plan (LDECP).

- (a) *Land Disturbance Permit.*
 - (1) *Permit required.* A Land Disturbance Permit (LDP) shall be required before any land disturbing activity occurs in connection with any of the following:
 - a. Projects with land disturbance of 10,000 square feet or more in size;
 - b. Any land disturbing activity that changes the existing or natural contour of the land which affects drainage or natural resources, such as slopes, trees or water bodies; and
 - c. Any alteration of land that changes the elevation by more than five (5) feet from the existing contour of the ground on any contiguous one thousand (1,000) or more square feet of ground.
- (2) *Exemptions.*
 - a. The following shall be exempt from the provisions of this Chapter:
 - b. Minimal land disturbing activities such as house gardens and individual home landscaping, repairs, maintenance work and other related activities;
 - c. Excavation or grading for agricultural purposes located no closer than three hundred feet (300') from any edge or delineated boundary of any water body;
 - d. Below finished grade elevations for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit;
 - e. Excavations for wells, tunnels or utilities;
 - f. Exploratory excavations under the direction of soil engineers or engineering geologists;
 - g. Individual service connections;

- h. Installation of posts or poles;
- i. Emergency work and emergency repairs;
- j. Land disturbing activities that require approval from the Watershed Management Organization shall not be required to submit a Land Disturbance and Erosion Control Plan or apply for a Land Disturbance Permit.

(3) *Approval Standards.*

- a. *Surface Water Management Plan.* All construction, land disturbing activity and development shall comply with the City's Surface Water Management Plan. All persons performing any grading operations shall put into effect all safety precautions which are necessary in the opinion of the Public Works Director and provide adequate erosion control as per the NPDES Program, including anti-erosion and/or drainage devices, debris basins, or other safety devices to protect the life, limb, health, and welfare and private and public property of others from damage of any kind.
- b. *Compliance with Minnesota Wetland Conservation Act.* No approval to allow wetland-disturbing activities shall be issued until approval of a wetland replacement plan or a certificate of exemption has been obtained in compliance with the provisions of this Chapter and the Minnesota Wetland Conservation Act of 1999. The Minnesota Wetland Conservation Act of 1991, as amended from time to time, is hereby incorporated into this Chapter by reference.
- c. *Erosion Control Standards.* Every applicant for a LDP must adhere to erosion control measure standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas" or as approved by the City of Anoka.
- d. *Tree Preservation.* Removal or loss of significant trees shall be in accordance with a City approved Land Disturbance and Erosion Control Plan and the arboricultural specifications and standards in the City's Master Street Tree Plan.
- e. *City Plans and Ordinances.* Every applicant for a LDP shall comply with all applicable adopted City plans and ordinances.

(4) *Permit Application.* The application for a LDP permit shall be made in writing to the City on such form as the City may, from time to time, designate. The application shall include three (3) copies of the submittal materials.

(5) *Fees.* The processing and approval fee shall be established from time to time by the City Council. In addition, the applicant will be responsible for all reasonable costs incurred by the City in review of the proposed plan. Fees may vary based on the complexity of the plan review process.

(6) *Submittal.* Any application for a Land Disturbance Permit (LDP) shall be submitted to the City with required fees. All applications shall also include the following information:

- a. A *Land Disturbance and Erosion Control Plan* (LDECP) which indicates compliance with this Chapter, including:
 1. *Erosion and Sedimentation Controls.*
 - i. Identification and use of the “best management practices” for temporary erosion and sedimentation control as recommended by the MPCA in its publication “Protecting Water Quality in Urban Areas,” (2000), or as amended, including but not limited to: Perimeter erosion control devices, including but not limited to silt fencing; phased grading; temporary seeding; rock construction entrance; storm drain inlet protection devices; removal of all debris, dirt and soil from impervious ground surfaces including abutting public or private roadways and sidewalks in connection with the subject property; sediment basins and flow diversions; and any other erosion control and sedimentation device deemed necessary by the City.
 - ii. Identification of all permanent erosion control measures and a completion schedule.
 2. *Tree Preservation.*
 - i. An accurate inventory of significant trees on the subject property, including identification of the size, species, condition, and location of each significant tree.
 - ii. Identification of all significant trees on the subject property proposed to be removed or that will be lost as a result of the land disturbing activity.
 - iii. Identification of measures to be utilized to protect and preserve the significant trees proposed to be preserved.
 3. *Drainage and Grading.*
 - i. Identification of all measures to protect water bodies and wetland areas.
 - ii. If applicable, the plans must be consistent with any approved subdivision grading plan.
 - iii. Methods of controlling dust.
 - iv. Plans for controlling site runoff.
 - v. The plan shall not adversely impact neighboring properties.

- vi. The plan shall minimize any irreparable adverse impacts to natural resources upon the subject property.
 - vii. The plan shall provide for and include any of the following temporary safety requirements if the City determines that all, or a combination thereof, of the following requirements are necessary for the protection of public safety, health and welfare:
 - aa. Any slope of 3:1 or greater that is adjacent to a project property line and which is deemed dangerous by the City must be properly fenced;
 - bb. Banks, fill, or any depression or mound must be sloped or leveled off or otherwise placed in such condition at any time as not to be dangerous because of sliding or caving banks, and so as to minimize or stop erosion or dust during or after the grading operation; and
 - cc. Any graded or ungraded area must be properly drained, filled, or leveled off so as to make the same safe and healthful, unless otherwise approved by the City.
- b. General Information, including a site plan that includes the following:
- 1. The names, addresses, telephone numbers, and fax numbers of the applicant, owner, developer, engineer and contact person.
 - 2. The section, township and range, north point, date and scale of drawing, and number of sheets.
 - 3. Plat names and block, lot, and outlot boundaries for adjacent platted properties and full property identification numbers for adjacent unplatted properties.
 - 4. Delineation of the subject property and the location of existing and proposed buildings, structures and impervious surfaces on the subject property.
 - 5. Location and indication of demolition, relocation or abandonment of existing structures, driveways, septic systems and wells.
 - 6. Existing underground and overhead utilities, easements and rights-of-way.
 - 7. Topographical data, including existing (dashed) and proposed (solid) contours at vertical intervals of not more

than two (2) feet, except that contour lines shall be no more than one hundred (100) feet apart.

8. The location and size of all existing sanitary sewer, water or storm sewer, and services on or adjacent to the property.
9. Identification of all water bodies located on or within thirty (30) feet of the subject property's boundaries, including the Normal Water Level (NWL), the High Water Level (HWL), and the Ordinary High Water (OHW) elevations.
10. The location and direction of natural drainage patterns on and immediately adjacent to the site.
11. A description of the soils at the site.
12. If applicable, the location of the ten (10) year and one hundred (100) year flood plains, flood fringes, and flood ways.
13. Delineation of all areas to be graded or excavated, and the limits of land disturbing activity.
14. Identification of the location of dirt or soil storage or stockpile area to be utilized on the subject property.
15. The estimated time required to complete the proposed work and the amount of material to be moved on the site and the amount to be removed from the site.
16. A landscape plan, drawn to appropriate scale, including dimensions and distances, and the location, type, size, and description of all proposed landscape materials that will be added as part of the development.
17. Location and dimensions of permanent erosion control measures.
18. Location of any proposed septic system.
19. Any other information pertinent to the particular project which in the opinion of the applicant or the City is necessary for the review of the project.

(7) *Plan and Permit Review Procedure.*

- a. *Process.* Review of the submitted plan and permit will be coordinated with other necessary approvals.
- b. *Plan and Permit Approval.* Projects that are regulated by this Chapter shall be approved administratively by City staff, unless City staff presents it to the City Council for its review and approval. Upon finding that the requirements of this Chapter have been met and after approval of the Land Disturbance and Erosion Control

Plan, the City will issue a permit in accordance with the provisions of this Chapter.

- c. *Conditions of Approval.* In granting any land disturbance permit, the Public Works Director may attach such conditions as may be reasonably necessary to prevent creation of a nuisance or hazard to public or private property. Such conditions may include, but are not limited to:

1. Requirements for fencing of excavations.
2. Improvements of any existing site condition for compliance with the standards of this chapter.
3. Requirements to slope banks and keep the excavation in such condition as not to be dangerous from caving or sliding banks.
4. Requirements to properly drain, fill or level the excavation, after it has been created, to make the excavation safe.
5. Requirements to remove excavated/graded material from the excavation away from the premises upon and along such highways, streets, or other public way as directed by the City.
6. Requirements to retain and store top soil from the subject site and to utilize such material in restoration of the site.
7. Requirements to limit the hours of operation.

(8) *Security.* The City shall require either the applicant or the owner for which the land disturbance permit is issued to post a security in such form and sum as determined by the Public Works Director. The amount of the security shall be sufficient to cover the City's extraordinary cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill or excavated material. The amount of the security shall also be sufficient to ensure compliance with all requirements of this Chapter, and the particular permit, and to pay the expense the City may incur as a result of the permit.

(9) *Expiration of Permit and Plan.* Any Land Disturbance Permit issued pursuant to the requirements of this Chapter shall expire two (2) years from the date of approval if significant progress of the work covered by the Permit is not accomplished, unless an extension of the permit is requested by the applicant and approved by the City Council.

(10) *Revocation of Permit.* Failure to comply with the approved terms and conditions of a Land Disturbance and Erosion Control Plan shall be grounds for revocation of the Land Disturbance Permit, or other permit or approval issued in lieu thereof, by the City Council following a public hearing. Written notice of the public hearing shall be mailed at least ten (10) days prior to said hearing to the current holder of the Permit. Such notice shall outline the violation(s) considered by the City to be grounds for revocation

and inform the current holder of the permit of the opportunity to be heard at such public hearing.

- (11) *Other permit or approval in lieu of Land Disturbance Permit.* When a building permit is issued in connection with a project, or a new development project is approved by the City as required by the City Code, the building permit or other new development approval may be in lieu of the land disturbance permit required hereunder, provided the applicant shall comply with all other regulations herein, including but not limited to compliance with a Land Disturbance and Erosion Control Plan.
- (12) *Appeal of Decisions.* Except the decision to revoke a land disturbance permit under Section 42.05, subsection 10, the applicant may appeal any requirement, decision or determination by the City in connection with any provision of this Section pursuant to the procedures as set forth in the City Code under zoning regulations as related to the Board of Appeals and Adjustments.
- (13) *Compliance with Plan.* The applicant shall implement and comply with a City-approved Land Disturbance and Erosion Control Plan (LDECP) prior to and during any construction or land disturbing activity under the Land Disturbance Permit (LDP). All erosion and sedimentation control and tree preservation measures required under the Plan shall be properly installed and remain in place until all grading and construction activity is completed or until a written request for removal of the protection measures is made to and approved by the City. No construction or land disturbing activity to which this Chapter applies or removal of any significant trees may occur until the LDECP is approved by the City and except in accordance with the approved LDECP. Failure to comply with the approved terms and conditions of the LDECP shall constitute a violation of this Chapter.
 - a. *Determination of Compliance.* The City shall have the right to enter and inspect the subject property in order to determine compliance with the approved LDECP. The City shall have the right to order the suspension of any grading or construction activity on the subject property until compliance with the LDECP has occurred.
 - b. *Finding of Noncompliance.* Upon a finding of noncompliance, the City shall use the following procedure with respect to notification and corrective measures:
 1. The City shall personally serve upon the project manager, or other responsible person, and by certified U. S mail upon the property owner, if different than the project manager, a written notification of the violation of the approved LDECP.
 2. If remedial work is not completed and compliance with the LDECP has not occurred within forty-eight (48) hours of service of the violation notification, the City may complete remedial or corrective work and any costs incurred in connection with taking remedial action or installing corrective measures may be recovered from the applicant. The City may recover costs by certifying them for

collection with real estate property taxes. In the alternative, the City may revoke a construction-related permit and order the termination of all construction activity on the subject property until the subject site is in compliance with the LDECP.

- (14) *Emergency Corrective Actions.* In the event circumstances exist that noncompliance poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency corrective action to prevent such danger. The City shall take reasonable action to contact and direct the owner of the subject property to take any necessary action. Any costs incurred by the City in connection with any emergency action may be recovered from the applicant. The City may elect to recover costs by certifying them for collection with real estate property taxes.

Section 38-178.

Conflict with Other Laws.

If the requirements of this Chapter are in conflict with any other federal, state or local law, the stricter requirements shall be enforced.

Section 38-179.

Heritage Preservation.

No land disturbing activities shall be performed on any significant historic site in any manner that affects the historic value of the site prior to preparation of an inventory and analysis of the site being prepared by a professional historian or archeologist. The inventory and analysis shall be deposited with the Minnesota Historical Society or other suitable repository approved by the City Council.

Section 38-180.

Enforcement.

It shall be the duty of the Public Works Director, or his designee, to enforce the provisions of this Chapter. Land Disturbance Permits may be issued by the City Building Official following approval of the Land Disturbance and Erosion Control Plan by the Public Works Director. Issuance of a Land Disturbance Permit does not represent approval of a final plat, site plan, or other required permit or approval of the City, and all land disturbance permits are subject to amendment based on future approvals or permits.

Section 38-181.

Violations and Penalties.

- (a) Any person who violates any of the provisions of this Chapter shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.
- (b) In the event of a violation of this Chapter, the City may institute appropriate proceedings, including bringing criminal charges, or seeking civil or injunctive relief, to prevent, restrain, correct, or abate such violations. The City, in any court of competent jurisdiction, may recover all costs incurred for corrective action. Any violator of this Ordinance shall be responsible for the City's cost of prosecution, including attorney's fees.

Section 38-182.

Severability.

If any section, subsection, sentence, clause, phrase or portion of this Chapter is, for any reason, held to be invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

CHAPTER 42. LAW ENFORCEMENT

ARTICLE III. Unclaimed Property

***State law reference--Unclaimed property, Minn. Stats. ch. 345.**

Section 42-46. Custody of found property.

The chief of police shall make provisions for receiving and safekeeping found property and money delivered to him and coming into his possession in the course of municipal operations. A receipt shall be issued to the person delivering such property or money to the city. Such property shall be stored in a safe place for 90 days and such money deposited with the city treasurer in a special account for found money for a period of six months unless claimed by the true owner. It shall then be subject to disposal under this article as unclaimed property or money.

Section 42-47. Claims by owner generally.

During the 90-day period described in section 42-46 for the storing of property and the holding of such money for a period of six months, the chief of police may deliver such property or order such money paid to the true owner upon proof of ownership satisfactory to the chief, after ten days' notice by mail directed to the last known address of the person who delivered such property and of any other person who has asserted a claim of ownership. The clerk shall not issue any order for the disbursement of such money without the written order of the chief of police. If ownership cannot be determined to his satisfaction, the chief of police may refuse to deliver such property or order the payment of such money to anyone until ordered to do so by the court.

Section 42-48. Claim by founder.

If the true owner does not claim the property within the 90-day period or the money during the six-month period, the chief may deliver the property or order the money to be paid to the person who delivered it to the police chief if at the time of delivery such person indicated in writing that he wished to assert a claim to the property or money as a finder.

Section 42-49. Transfer of found money to general fund.

If any such money is not claimed by the true owner or finder within the six-month period, the chief of police shall so notify the clerk and the money shall then be transferred to the general fund of the city.

Section 42-50. Sale authorized.

After the 90-day period described in section 42-46, property not delivered to the true owner or finder shall be sold by the chief of police at public auction or appropriated to the use of the city. The chief of police shall give one week's published notice of the auction in the official newspaper. The notice shall describe the articles to be disposed of and announce the date, time, and place of the auction. Instead of being sold at auction, any article or property may be appropriated to the use of the city by any department in need thereof upon approval of such appropriation by the city council.

Section 42-51.

Disposition of proceeds of sale.

After the auction has been completed, the chief of police shall remit the proceeds of the auction to the city treasurer for deposit in the general fund. Any property offered for sale but not sold and not suitable for appropriation to the use of the city shall be deemed to be of no value and shall be disposed of in such manner as the chief of police directs.

Section 42-52.

Claim by owner after auction.

The true owner of property sold at auction under section 42-50 shall, upon application to the clerk within six months of the auction and upon satisfactory proof of ownership, be paid the sale price from the general fund.

Section 42-53.

Summary disposal.

The chief of police may, without notice and in such manner as he determines to be in the public interest, dispose immediately of any property coming into his possession which he determines to be dangerous or perishable. The chief of police shall make a record of the pertinent facts of the receipt and disposal of such property.

CHAPTER 42. LAW ENFORCEMENT

ARTICLE IV. Social Host

Section 42-65. Purpose and Findings.

The Anoka City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Anoka City Council finds that:

- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- (c) Alcohol, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- (d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
- (e) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- (f) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Section 42-66. Definitions.

For purposes of this section, the following terms have the following meanings:

- (a) *Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- (b) *Alcoholic beverage* means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- (c) *Event or gathering* means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (d) *Host* means to aid, conduct, sponsor, allow, entertain, organize, supervise, control, or permit a gathering or event.

- (e) *Parent* means any person having legal custody of a juvenile:
 - 1. As [a] natural, adoptive parent, or step-parent;
 - 2. As a legal guardian; or
 - 3. As a person to whom legal custody has been given by order of a court.
- (f) *Person* means any individual, partnership, co-partnership, corporation, or any association of one or more individuals. "Person" does not include a city, county, or state agency.
- (g) *Residence or premises* means any location, including a home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- (h) *Underage person* means an individual under 21 years of age.

Section 42-67.

Prohibited Acts.

- A. It is unlawful for any person(s) to host or allow an event or gathering at any residence or premises where alcohol or alcoholic beverages are present when the person knows or reasonably should know that an underage person will or does:
 - 1. Consume any alcohol or alcoholic beverage; or
 - 2. Possess any alcohol or alcoholic beverage with the intent to consume it; and
 - 3. The person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- B. A person is criminally responsible for violating Section 42-67 A., above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
- C. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Section 42-68.

Exceptions.

- A. This section does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- B. This section does not apply to legally protected religious observances.
- C. This section does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. § 340A.503, Subd.1(a)(1).
- D. This section does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

- E. This Chapter does not apply to a landlord, mortgagee, college, university, hotel or motel owner, or operator who has not actually participated in hosting or allowing an event of gathering where alcohol is present.

Section 42-69.

Enforcement.

This Article may be enforced by any police officer or sheriff's deputy in Anoka county.

Section 42-70.

Severability.

If any subsection, sentence, clause, phrase, word, or other portion of this section is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Section 42-71.

Penalty.

Violation of this Article is a misdemeanor.

Sections 42-72 thru 79. *Reserved.*

CHAPTER 46. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. In General

Section 46-1. False alarms by alarm system.

- (a) *Definitions.* For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Alarm system means any assembly of equipment or devices, either mechanically or electronically operated, which signals either audibly or in any other manner so as to be seen, heard, or otherwise detected outside the protected area for the purpose of summoning a response by public safety personnel.

Alarm users means a person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, residence, structure, vehicle, or facility where an alarm system is maintained.

False alarm means an alarm signal eliciting a response by public safety personnel when a situation requiring a response does not, in fact, exist and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation, or the inadvertence of the alarm user, or employees or agents of the alarm user. A false alarm does not include an alarm caused by climatic condition or utility line mishaps or other conditions determined to be beyond the control of the alarm manufacturer, installer, or user.

Police response means whenever a police department employee or designee arrives at the location of the false alarm in response to it.

- (b) *Service fee for false alarms.* Any alarm under whose alarm system reports more than three false alarms in a calendar year which result in police response, shall pay service fees as determined by the council. Notice of false alarm charges shall be sent to the user of the alarm system and the owner of the property where the system is installed, if different from the user. Payment of such charges shall be made to the city within 30 days of the date of notice. Unpaid charges shall be annually certified to the county auditor and shall be collected in the same manner as special assessments against the property. No licenses, permits, or other city approval shall be granted to any person, firm, or company which has unpaid false alarm charges.

Sections 46-2 thru 46-30.

Reserved.

CHAPTER 46. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE III. Offenses Involving Public Safety

***State law reference--**Offenses involving public safety, Minn. Stats. § 609.66 & 609.02et seq.

Section 46-61. Firearms and Dangerous Weapons Discharge.

No person shall fire, discharge, or explode any gun, pistol, or other dangerous weapon in the City. Nothing in this section shall be construed so as to prohibit the firing of guns, pistols, or any species of firearms:

- (a) When done in the lawful defense of person, property, or family;
- (b) When done in the necessary enforcement of the law;
- (c) By members of the Armed Forces of the United States or the National Guard, or by a licensed Peace Officer, while engaged in the performance of official duties as such.
- (d) When done as law enforcement training, at the ATK Federal Gun Range as research & development or quality control, or at the Anoka Police Gun Range.
- (e) As approved under a special permit to allow hunting.

State law reference--Dangerous weapons, Minn. Stats. § 609.66 & 609.02 Subd. 6.

Section 46-62. Exception.

The City Council may provide for an exception to Section 46-61, under the following conditions: (1) for publicly or privately owned schools offering archery classes and training, (2) for City approved archery ranges, to allow the discharge and use of bows and arrows, and the use of crossbows by individuals that hold a valid Minnesota Department of Natural Resources Crossbow Disability permit, or (3) if the firearm discharge is classified by the City as an authorized historical, exhibition or entertainment performance which is in conjunction with an event sponsored by the State of Minnesota, County of Anoka or City of Anoka. Under either condition, the following must be provided to the City prior to Council approval.

- (a) Successful background investigation by the Anoka Police Department.
- (b) Successful staff review and investigation of premises and performance detail.
- (c) A current Certificate of Insurance, approved by the City, which provides coverage for the archery range and/or performance/event and names the City as an additional insured party.

Section 46-63. Predatory Offender Residency Restriction Ordinance.

- (a) Findings and Purpose.

Repeat predatory offenders present an extreme threat to the public safety of a community as a whole, and especially to children. Predatory offenders are likely to use physical violence and to repeat their offenses. Most predatory offenders commit many offenses, have many more victims than are ever

reported, and are prosecuted for only a fraction of their crimes. This makes the cost of predatory offender victimization to society at large, while incalculable, unmistakably steep.

It is the intent of this Section to serve the City's compelling interest to promote, protect and improve the health, safety, and welfare of citizens of the City of Anoka by creating areas around locations where children regularly congregate in concentrated numbers, and where certain predatory offenders are prohibited from establishing temporary or permanent residence.

- (b) Definitions. For the purpose of this Section, the following definitions will apply unless the context or intent clearly requires a different meaning:

Day Care. Any facility, public or private, licensed by the State of Minnesota or Anoka County, in which care, training, supervision, habilitation or developmental guidance for children is provided on a regular basis and for periods less than 24 hours per day.

Child or children. Any person or persons under 18 years of age, or individuals under age 21 who are in foster care.

Facilities for Children. All public parks, parkways, park facilities, parkland, public or private schools, designated public school bus stops, libraries, group homes, foster homes, day care and child care facilities, public recreation centers, non-profit or commercial recreation centers, public or private playgrounds, public or commercial swimming pools, public beaches, youth centers, athletic fields used by children, crisis centers or shelters, care facilities for children's skate park or rink, movie theaters, bowling alleys, facilities for children's clubs, e.g. scouting, public recreational areas and trails including conservation areas, jogging trails, hiking trails, walking trails, bicycle trails, Offices for Child Protective Services, places of assembly, and specialized schools for children, including but not limited to, tutoring, gymnastics, dance and music schools.

Designated Predatory Offender. Any person who has been categorized as a Level III predatory offender under Minnesota Statutes 244.052, a successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of re-offense.

Licensed Child Care Facility. Any facility, center, home or institution licensed by the State of Minnesota pursuant to Minn. Stat. 245A, where children are cared for pursuant to the requirements of a license issued by the Minnesota Department of Human Services.

Permanent Residence. A place where a person abides, lodges, or resides for 14 or more consecutive days. An ownership interest by the person in such residence is not required.

Place of Assembly. A place of assembly, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs or a special purpose building that is designated or particularly adapted for the primary use of conducting, on a regular basis, religious services and associated accessory uses by a religious congregation.

School. Any public or non-public educational institution providing instructional services to children, which shall include any structure, land, or facility owned, leased or used for operation of the school or school activities.

Temporary Residence. A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year, and which is not the person's permanent residence, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

- (c) Prohibitions; Measurement of Distance; Penalties; Exceptions.
 - (1) *Prohibited location of residence.* It is unlawful for any designated predatory offender to establish a permanent residence or temporary residence within 2,000 feet of any school, day care, licensed child care facility, place of assembly, or facility for children.
 - (2) *Prohibition present in safety zone.* It is unlawful for any designated predatory offender to be present within 100 feet of any facility for children or day care facility.
 - (3) *Prohibited activity.* It is unlawful for any designated predatory offender to participate in a holiday event involving children such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or proceeding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.
 - (4) *Measurement of distance.* For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line form the property line of the permanent residence or temporary residence to the nearest outer property line of the school, day care, licensed child care facility, place of assembly, facility for children, or park.
 - (5) *Violations.* A designated predatory offender who violates this Section shall be deemed guilty of a misdemeanor. Each day a designated predatory offender maintains a residence in violation of this Section constitutes a separate violation.
 - (6) *Exceptions.* A designated predatory offender residing within a prohibited location, as herein described, does not commit a violation of this Section if any of the following apply:
 - A. The designated predatory offender established the permanent or temporary residence and reported and registered the residence pursuant to Minnesota Statutes Sections 243.166 and 243.167, or a successor statute, prior to May 16, 2016.
 - B. The designated predatory offender was a minor when he/she committed the offense and was not convicted as an adult.
 - C. The designated predatory offender is a minor.
 - D. The school, day care, licensed child care facility, place of assembly, or facility for children within 2,000 feet of the designated predatory offender's residence was opened after the designated predatory offender established their permanent or temporary residence, and reported and registered the

residence pursuant to Minnesota Statutes, Sections 243.166 and 243.167, or a successor statute.

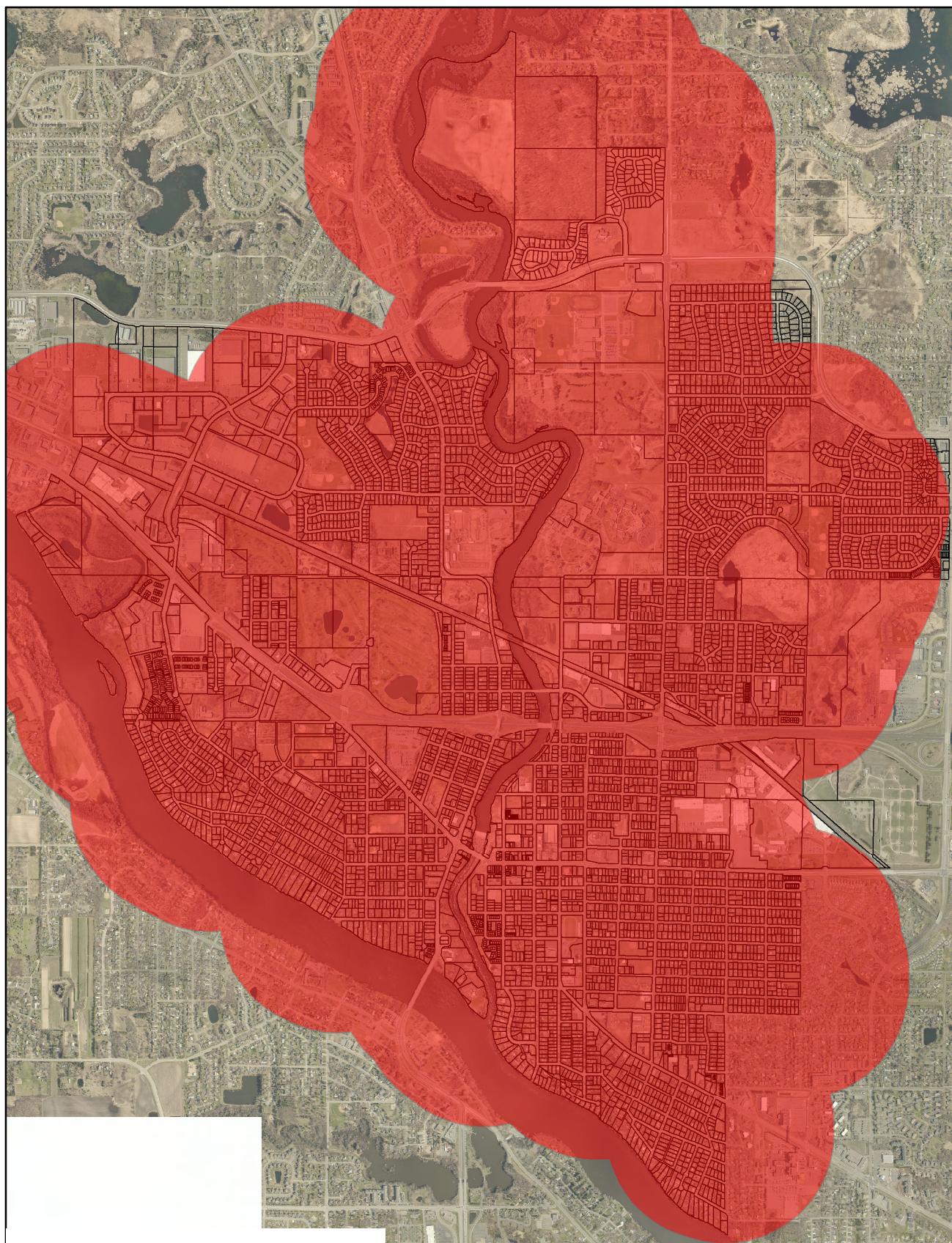
- E. The residence is also the primary residence of the designated predatory offender's parents, grandparents, siblings or spouse.
- F. The residence is a property purchased, leased, or contracted with and licensed by the Minnesota Department of Corrections prior to May 16, 2016.
- G. The designated predatory offender is in residence at the Anoka County Jail or AMRTC (Anoka Metro Regional Treatment Center).

- (d) Official map of prohibited locations. The City Manager, or designee, shall maintain an official map showing prohibited locations of residences as defined by this Section. The City Manager, or designee, shall review annually, and if appropriate, update the map to reflect any changes in the prohibited locations. The map shall not be deemed conclusive or all-encompassing since some prohibited locations change from time to time including, but not limited to, other places where children are known to congregate.
- (e) Restrictions Relating to Rental Property; Penalties.
 - (1) It is unlawful for a property owner to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to this Section if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location as set forth in Section 46-64 (d).
 - (2) A property owner violating Section 46-63 (e) shall be guilty of a petty misdemeanor. Each day a property owner violates Section 46-63 (e) constitutes a separate violation.
 - (3) If a property owner discovers or is informed that a tenant is a designated predatory offender after signing a lease or otherwise agreeing to let the designated predatory offender reside on the property, the owner or property manager may evict the offender without further liability to the offender.
 - (4) Violation of Section 46-63 (e) may be cause to suspend or revoke the property owner's rental license.
- (f) Severability. Should any section, subdivision, clause, or other provision of this section be held invalid by any court of competent jurisdiction, such decision shall not affect the validity of this Section as a whole, or of any part thereof, other than the part held to be invalid.

Sections 46-64 – 46-90. Reserved

Areas Restricted for Predatory Offender Residency

Includes Areas Within 2,000 Feet of: Schools, Day Cares, Licensed Child Care Facilities, Places of Assembly, and Facilities for Children.



0 0.5 1 Miles



Map Created: June 16, 2016

CHAPTER 46. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE IV. Offenses Involving Public Peace and Order

Section 46-91. Breach of the peace.

No person shall use any language in a public place that is reasonably calculated to cause an immediate breach of the peace.

Section 46-92. Loitering.

(a) Whoever commits any of the following acts is guilty of a petty misdemeanor:

- (1) Lingering about the doorway of any building, or sitting or lingering upon the steps, windowsills, railing, fence, or parking area adjacent to any building in such a manner so as to obstruct or partially obstruct ingress to or egress from such building or in such a manner to annoy the owner or occupant.
- (2) Remaining for more than five minutes on any private business premise which is posted with a conspicuous sign containing the words "No Loitering" when: (i) the business establishment is closed; or (ii) the person charged does not visibly demonstrate any intent to conduct business at the establishment or to leave the premise after having conducted such business.
- (3) Remaining for more than five minutes on any public business premise which is posted with a conspicuous sign containing the words "No Loitering" when such premise neither has been nor will be open for business within 30 minutes.
- (4) Remaining for more than five minutes on any public or private non-business premise which is posted with a conspicuous sign containing the words "No Loitering."
- (5) Lingering for any length of time upon any public or private premises or move in a slow and deliberate manner without purpose or otherwise interfere with, obstruct, or render dangerous or unreasonable for passage, any public highway, sidewalk, parking area or right-of-way after having been warned within the preceding four months, either orally or in writing, by the owner, agent, manager, or person in charge thereof, or by any law enforcement agent or official, that such conduct will result in a charge under this section. The provisions of this subsection shall be applicable only along any street designated as a "No Cruising Zone" and only between the hours of 9:00 p.m. and 2:00 a.m.

(b) Whoever commits any of the following acts is guilty of a misdemeanor:

- (1) Failing or refusing to vacate or leave any premises after being requested or ordered, either orally or in writing, to do so by the owner, agent, manager or person in charge thereof, or by any law enforcement agent or official or returning at any time thereafter to any such premise after having been so requested or ordered to vacate such premise.

- (2) Any of the acts described in this Article within one (1) year of being found guilty of any violation of this Article.
- (c) For purposes of this section, premises shall include any yard, lot, parcel, sidewalk, boulevard, street, highway, alley, park, playground, restaurant, cafe, church, school, any car or other motor vehicle, parking lot, drive-in, building used for business, commercial or industrial purposes, washroom or lavatory, apartment hallway or other location whether public or private in the city. Business premises include all premises, whether public or private, which include a facility that has established open and closed hours. Non-business premises include all other premises in the city.

Section 46-93.

Aggressive Solicitation.

- (a) Definitions.
- (1) *Solicitation*, as used in this section, means any plea made in person where:
- a. A person by vocal appeal requests an immediate donation of money or other item from another person;
- b. A person verbally offers or actively provides an item or service of little or no value to another in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.

However, solicitation shall not include the act of passively standing, sitting, or engaging in a performance of art with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

- (2) *Convenience store*, as used in this section, means a retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with them, with a gross floor area of less than seven thousand five hundred (7,500) square feet.
- (3) *Public entertainment venue* means a place that is open to the public (whether or not upon payment of a fee for admission and whether or not the management reserves the right to exclude individual members of the public) for entertainment but does not include a shop. The term includes, but is not limited to, cinemas, theatres, concert halls, electronic games centers, indoor sports centers (including a bowling alley), art galleries, museums, and premises upon which any display or exhibition promoted such as is conducted.

- (b) Prohibitions.

- (1) It shall be unlawful in a public place to engage in an act of solicitation when the person being solicited is present at any of the following locations:
- a. In a restroom.
- b. At a bus stop or shelter or the North Star station.

- c. At or within ten (10) feet in any direction from a crosswalk.
 - d. In any public transportation vehicle or public street or alley.
 - e. In a vehicle which is parked or stopped on a public street or alley.
 - f. In a sidewalk café.
 - g. In a line waiting to be admitted to a commercial or governmental establishments.
 - h. Within eighty (80) feet in any direction from an automatic teller machine or entrance to a bank, other financial institutions, or check cashing business.
 - i. On any park land, or in any park, playground, or public entertainment venue, including within fifty (50) feet of entry ways or exits thereto.
 - j. At or within ten (10) feet in any direction of the property on which is located a gasoline filling station.
 - k. At or within ten (10) feet in any direction of the property on which is located a liquor store, including any establishment with an off-sale license.
 - l. At or within ten (10) feet in any direction of the property on which a convenience store is located.
- (2) It shall be unlawful in a public place to engage in an act of solicitation in a manner that incorporates any of the following methods:
- a. Intentionally touching or causing physical contact with the solicited person without that person's consent.
 - b. Intentionally blocking the path of the solicited person, or the entrance to any building or vehicle.
 - c. Following behind, ahead or alongside a person who walks away from the solicitor after being solicited, with the intent to intimidate or continue solicitation.
 - d. Using obscene, profane, or abusive language or gestures toward the solicited person.
 - e. Approaching the solicited person in a manner that:
 - 1. Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - 2. Is intended to or is likely to intimidate a reasonable person into responding affirmatively to the solicitation.
 - f. Solicitation while under the influence of alcohol or drugs.

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- g. Soliciting in a group of two (2) or more persons.
- (3) It shall be unlawful in a public place to engage in an act of solicitation on any day after sunset, or before sunrise.
- (c) *Penalties.* Each act of solicitation prohibited by this section shall constitute a separate violation of this section. Each violation shall be punishable as a misdemeanor.

Sections 46-94 thru 46-120. **Reserved.**

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CHAPTER 46. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE V. Offenses Involving Public Morals

Section 46-121. Consumption of alcohol in public.

Except by permit, no person shall consume, drink, or have in his possession in an opened container of any intoxicating liquor, intoxicating malt liquor, non-intoxicating malt liquor, or alcoholic beverage of any kind whatsoever, while upon the public streets, lanes, alleys, sidewalks, rights-of-way, parking lots, or parking ramps, unless the alcohol is merely being transported in a vehicle in compliance with state statutes.

State law reference--Open bottles in motor vehicles, Minn. Stats. § 169.122.

Section 46-122. Public Drunkenness-Intoxication.

No person shall be found drunk or intoxicated in any street, public or private place within the City.

Sections 46-123 thru 46-139. Reserved.

CHAPTER 46. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE VI. Offenses - Miscellaneous

Section 46-140. Curfew.

- (a) *Persons under fifteen (15) years of age.* It shall be unlawful for any person under the age of fifteen (15) years to be on or present in any public street, avenue, alley, park or other public place in the City between the hours of 10:00 p.m. and 5:00 a.m. of the following day, unless accompanied by his parent or guardian, or person having legal custody and control of the person, or unless there exists a reasonable necessity therefore. The fact that such child, unaccompanied by parent, guardian or other person having legal custody, is found upon any street, alley, or public place after 10:00 p.m. or before 5:00 a.m. of the following day, shall be evidence that such child is there unlawfully and that no reasonable excuse exists therefore.
- (b) *Persons over fifteen (15) years of age and under eighteen (18) years of age.* It shall be unlawful for any person under the age of eighteen (18) years and over the age of fourteen (14) years to be on any public street, avenue, alley, park or other public place in the City between the hours of 12:00 midnight and 5:00 a.m. of the following day unless accompanied by his parent or guardian, or person having legal custody ad control of the person, or unless there exists a reasonable necessity therefore. The fact that such child, unaccompanied by parent, guardian or other person having legal custody, is found upon any street, alley or public place after 12:00 midnight or before 5:00 a.m. of the following day, shall be evidence that such child is there unlawfully and that no reasonable excuse exists therefore.
- (c) *Responsibility of Parent(s), Guardian(s), Person(s) having legal custody.* It shall be unlawful for any parent, guardian or other person having the legal custody and control of a minor under the age of eighteen years to knowingly or negligently permit such minor to violate the provisions of the curfew regulations as stated in this Article.
- (d) Responsibility of Operator of Place of Entertainment, etc. It shall be unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment, or any other place of business to permit any minor under the age of eighteen (18) year to loiter, loaf or idle in such place during the prohibited in this Article.

Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment, or other place of business shall find persons under the age of eighteen (18) years loitering, loafing, or idling in such place of business, he shall immediately order such person to leave, and if such person refuses to leave the place of business, the operator shall immediately notify the police department and inform them of the violation.

This section shall not be construed as permitting the presence at any time of any person under the age of eighteen (18) years in any place where his presence is no prohibited by an existing law or ordinance.

CHAPTER 46. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE VII. Offenses Related to Drug Paraphernalia

Section 46-160 Drug Paraphernalia.

Pursuant to authority granted by Minnesota Statutes, Section 152.205

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

Drug Paraphernalia. All equipment, products, and materials of any kind which are used, primarily used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, enhancing, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introduce into the human body a controlled substance in violation of M.S. Ch. 152, as it may be amended from time to time. Drug paraphernalia does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes. The term drug paraphernalia includes, but is not limited to:

- (1) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (2) 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;
- (3) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which controlled substances can be derived;
- (4) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- (5) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (6) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
- (7) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (8) Blenders, bowls, containers, spoons, grinders, and mixing devices used, intended for use, or designed for use in compounding, manufacturing, producing, processing, or preparing controlled substances;
- (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 or products or materials used or intended for use in manufacturing, producing, processing, or preparing controlled substances;

- (11) 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, which shall include, but not be limited to the following:
- 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. Objects commonly referred to as roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette, which has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;
 - k. Chillums;
 - l. Bongs;
 - m. Ice pipes or chillers; and
- (12) Ingredients or components to be used or intended or designed to be used in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance, whether or not otherwise lawfully obtained, including anhydrous ammonia, nonprescription medications, methamphetamine precursor drugs, or lawfully dispensed controlled substances.
- (b) *Factors to be considered in determining if an object is drug paraphernalia.* In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:
- (1) Statements by an owner or by anyone in control of the object concerning its use;
 - (2) Prior convictions, if any, of an owner or of anyone in control of the object under any state or federal law relating to any controlled substance and/or drug paraphernalia;
 - (3) The proximity of the object, in time and space, to a direct violation of this section;
 - (4) The proximity of the object to any controlled substance;
 - (5) The existence of any residue of a controlled substance on the object;
 - (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to any person whom he or she knows, or should reasonably know, intends 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 to a direct violation, of this act shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
 - (7) Instructions, oral or written, provided with the object concerning its use;
 - (8) Descriptive materials accompanying the object which explain or depict its use;
 - (9) National and local advertising concerning its use;

- (10) The manner in which the object is displayed for sale;
 - (11) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
 - (12) The existence and scope of any legitimate use for the object in the community;
 - (13) Expert testimony concerning its use;
 - (14) Whether the owner, or any one in control of the object, is a legitimate supplier of like or related items to the community, for example, a licensed distributor or dealer of tobacco products; and
 - (15) The actual or constructive possession by the owner or a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions, or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing, or analyzing-a controlled substance.
- (c) *Possession of drug paraphernalia prohibited.* 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 M.S. Ch. 152, as it may be amended from time to time. Any violation of this section is a petty misdemeanor.
- (d) *Manufacture or delivery of drug paraphernalia prohibited.* It is unlawful for any person to deliver, possess with intent to deliver, sell, possess with intent to sell, or manufacture with intent to deliver or sell, drug paraphernalia, if that person knows, or under circumstances where one reasonably should know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, enhance, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of M.S. Ch. 152. Any violation of this section is a misdemeanor.

CHAPTER 48. PROPERTY MAINTENANCE STANDARDS

ARTICLE 1 **In General**

Section 48-1. Purpose and Scope.

- (a) Purpose. The purpose of this Chapter is to protect the public health, safety, and the general welfare of the people of the city. These general objectives include, among others, the following:
- (1) To establish the minimum regulations governing the conditions and maintenance of all property, buildings, and structures within the City;
 - (2) To protect the character and stability of residential areas within the City;
 - (3) To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare, and health;
 - (4) To provide standards for heating and sanitary equipment and for light and ventilation necessary to protect the health and safety of occupants of buildings;
 - (5) To prevent the overcrowding of dwellings;
 - (6) To provide standards for the maintenance of existing residential buildings and accessory structures and to thus prevent substandard housing and blight;
 - (7) To preserve the value of land and buildings throughout the city.

With respect to disputes between tenants and landlords, and except as otherwise specifically provided by the terms of this ordinance, it is not the intention of the City Council to intrude upon the contractual relationship between the tenant and landlord. The City Council does not intend to intervene as an advocate of either party, nor to involve itself in rent disputes, nor to act as an arbitrator, nor to hear complaints from tenant or landlord which are not specifically and clearly relevant to the provisions of this Chapter.

- (b) Scope. The provisions of this code shall apply to all existing residential and non-residential structures and all existing premises. This Chapter shall constitute the minimum standards for premises, structures, and facilities for light, ventilation, life safety, safety from fire, and other hazards and for safe and sanitary maintenance.

Section 48-2. Definitions.

The definitions contained in Section 74-2 of this Code apply herein. Additionally, the following definitions shall apply in the interpretation and enforcement of this Chapter. In the event of a conflict between the definitions contained in Section 74-2 and this Section, the definitions contained in this Section shall control.

- (a) **Blended Family.** A family in which one or both parents have children from a previous relationship. Blended family includes, households with a combination of biological and adopted children, foster children, stepchildren and half siblings. Children who are being raised by family members other than parents may also be considered a blended family.
- (b) **Building Official.** The designated agent authorized by the City Council to administer and enforce the State Building Code.

- (c) **Dwelling.** A building or one or more portions thereof, occupied or intended to be occupied for residential purposes, including at least one dwelling unit or rooming unit, but not including rooms in motels, hotels, nursing homes, trailers, tents, cabins, or trailer coaches.
- (d) **Flush Water Closet.** A toilet with a bowl and trap made in one piece, which is connected to the city water and sewer system or other approved water supply and sewer system.
- (e) **Garbage.** The animal and vegetable waste resulting from the handling, preparing, cooking, marketing, or processing of food, or the non-consumed waste resulting from animals or humans consuming food.
- (f) **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.
- (g) **Habitable Room.** A room or enclosed floor space used or intended to be used for living, sleeping, or eating purposes, excluding kitchens, bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements (those without required ventilation, required electric outlets and required exit facilities), pantries, utility rooms of less than 50 square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces, workshops, and hobby and recreation areas in parts of the structure below ground level or in attics.
- (h) **Heated Water.** Water heated to a temperature of not less than 110 degrees Fahrenheit, or such lesser temperature required by government authority, measured at faucet outlet.
- (i) **Kitchen.** A space which contains a sink with counter working space, space for installing cooking and refrigeration equipment, and space for the storage of cooking utensils.
- (j) **Lease.** A written or oral agreement to rent. For use as a verb, see rent.
- (k) **Let.** To lease a premises or any portion thereof.
- (l) **Maintenance.** Upkeep of property and equipment in a safe working condition for which it was installed and/or constructed.
- (m) **Occupancy.** The purpose for which a building or portion thereof is utilized or occupied.
- (n) **Occupant.** Any person (including owner operator) who lives, sleeps, cooks, and eats in a dwelling unit or lives and sleeps in a rooming unit.
- (o) **Operate.** As used in this ordinance, the term "operate" means to charge rent or other considerations resulting in financial benefit for the use of a dwelling or a rooming unit.
- (p) **Operator.** The owner or his/her agent who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.
- (q) **Owner.** Any person, firm, or corporation who alone, jointly, or severally with others has title to any dwelling, or who has charge of, care of, or control of such property on behalf of the title holder. Any person representing the actual owner shall be bound to comply with the provisions of this ordinance to the same extent as the owner.
- (r) **Permissible Occupancy.** The maximum number of persons permitted to reside in a dwelling unit or rooming unit.
- (s) **Person.** An individual, firm, partnership, association, corporation, company, or joint venture or organization of any kind.

- (t) **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, bath basins, drains, vents, and any other similar fixtures and the installation thereof, together with all connections to water, sewer, and gas lines.
- (u) **Premises.** A property identifiable by address or legal description, including all associated structures. A lot, plot or parcel of land including any structures thereon.
- (v) **Property Maintenance Coordinator.** The designated agent authorized by the City Council to administer and enforce this ordinance.
- (w) **Public Hall.** A hall, corridor, or passageway for providing egress from a dwelling unit to a public way.
- (x) **Relative.** A personal owner's parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece.
- (y) **Rent.** Consideration paid for the use of premises, including, but not necessarily limited to, money, services and property. As a verb, the term 'rent' means to receive or allow the use of premises in return for such consideration or any combination thereof. The term 'rent' does not include arrangements whereby a relative occupies a dwelling and which arrangement is detailed and sworn to in affidavits filed by each adult occupant of the dwelling and each person who is an owner of the dwelling
- (z) **Refuse.** Means ashes, non-recyclable glass, crockery, cans, paper, boxes, rags, and similar non-putrescible non-recyclable wastes but excluding sand, earth, brick, stone, concrete, trees, tree branches and wood.
- (aa) **Rental Dwelling.** Any dwelling unit(s) let. Single family residential properties occupied by a relative shall not be considered a rental dwelling.
- (bb) **Repair.** The construction or renewal of any part of an existing building or its utilities, facilities, or equipment for the purpose of its maintenance.
- (cc) **Rodent Harborage.** A place where rodents commonly live, nest, or establish their habitat.
- (dd) **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.
- (ee) **Safety.** The condition of being reasonably free from danger and hazards which may cause accidents or disease.
- (ff) **Substandard Dwelling.** Any dwelling which does not conform to the minimum standards established by city ordinances.
- (gg) **Supplied.** Paid for, furnished by, provided by, or under the control of the owner, operator, or agent of a dwelling.
- (hh) **Meaning of certain words.** Whenever the words "dwelling," "dwelling unit," "premises," or "structure" are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof."

Section 48-3. Responsibilities of Owners and Occupants.

No owner or other person shall occupy or let to another person any dwelling, dwelling unit, rooming unit, building, or structure unless it and the premises are fit for human occupancy and comply with all applicable legal requirements of the State of Minnesota, and the City of Anoka as set forth specifically in the following subsections.

- (a) Maintenance of Shared or Public Areas. Every owner of a dwelling containing two or more dwelling units shall maintain or shall provide for maintenance of the shared or public areas of the dwelling and premises thereof.
- (b) Housekeeping of Occupied Areas. Every occupant of a dwelling, dwelling unit, or rooming unit shall properly housekeep that part of the dwelling, dwelling unit, and premises thereof that he/she occupies and controls.
- (c) Storage and Disposal of Refuse. Every occupant of a dwelling, dwelling unit, or rooming unit, building or structure shall store and dispose of all his/her refuse and garbage and any other organic waste which might provide food for insects and/or rodents as required by Chapter 13 of this Code.
- (d) Responsibility for Storage and Disposal of Garbage and Refuse. Every owner of a multiple-family dwelling shall supply facilities for the storage and/or disposal of refuse, garbage, and recycling materials. All garbage, waste material, debris, and recyclables shall be kept in an enclosed building or contained in a closed container designed for such purposes.

Owners shall provide refuse enclosures to screen all containers that are visible from a public street or alley. Such enclosure shall have a concrete floor base. Gates may not be required if properly oriented on the site. The design of such enclosures shall be reviewed and approved by city staff prior to issuance of a building permit.

Provisions for storage and disposal of garbage and refuse consistent with this chapter must be provided for multifamily buildings upon obtaining a building permit costing more than \$5,000.00. In the case of single-family and duplex dwellings, it shall be the responsibility of the occupant to adequately provide for the storage and disposal of garbage and refuse.

- (e) Responsibility for Storm and Screen Doors and Windows. The owner of any dwelling unit shall be responsible for providing, maintaining and hanging all screen and storm doors and storm windows whenever the same are required under the provisions of this ordinance.
- (f) Responsibility for Pest Extermination. Every occupant of a single-family dwelling shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit in a building containing more than one dwelling unit shall be responsible for such extermination whenever his/her dwelling unit is the only one infested, except when infestation is caused by the failure of the owner to maintain a dwelling in a reasonably rodent-proof condition; then, extermination shall be the responsibility of the owner. When infestation exists in two or more of the dwelling units in any building or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (g) Rodent Harborage Prohibited in Occupied Areas. No occupant of a dwelling shall accumulate boxes, firewood, lumber, scrap metal, or any other similar materials in such a manner that may provide rodent harborage in or about any dwelling. Outside stored materials shall be stacked neatly in piles at least four inches off bare soil or ground.

- (h) Rodent Harborage Prohibited in Public Areas. No owner or occupant of a dwelling shall accumulate or permit the accumulation of boxes, lumber, scrap metal, or any other similar materials in such a manner that may provide rodent harborage in or about shared or public areas of a dwelling or premises. Materials stored outside by the owner or permitted to be stored by the owner shall be stacked neatly in piles at least four inches above bare soil or ground.
- (i) Prevention of Food for Rodents. No owner or occupant of a dwelling unit shall store, place, or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.
- (j) Maintenance of Plumbing Fixtures and Facilities. The owner of a dwelling unit, rooming unit, building or structure shall maintain all supplied plumbing fixtures and facilities therein in good working order.
- (k) 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 room temperature of at least 68 degrees Fahrenheit shall be maintained from October 15th through April 15th.
- (l) Removal of Snow and Ice. The owner of any building or structure shall be responsible for the removal of snow and ice from parking lots, driveways, steps, and walkways on the premises, as well as from abutting sidewalks. The owner of any building or structure shall additionally be responsible for ice control measures. Individual snowfalls of three inches or more or successive snowfall accumulations to a depth of three inches shall be removed from walkways, steps and public sidewalks within 48 hours after cessation of the snowfall. The City's policy to assist in snow removal does not exempt any property owner from meeting these requirements.
- (m) Minimum Exterior Lighting. The owner of a rental dwelling or dwellings shall be responsible to provide and maintain effective illumination in all exterior parking areas and walkways.
- (n) Maintenance of Driveway and Parking Areas. The owner of a multiple-family dwelling or dwellings shall be responsible to provide and maintain in good condition paved and delineated parking areas and driveways for tenants. Each driveway and parking area on any multiple-family property existing on or before April 8, 1994, shall be paved with asphalt, concrete, brick, or similar dust-free surface at such time as a building permit may be taken for either remodeling or improvements costing more than \$5,000.00.

Section 48-4. Minimum Standards for Basic Equipment and Facilities.

No person shall occupy, rent or let to another for occupancy any dwelling or dwelling unit for the purposes of living, sleeping, cooking, and eating therein which does not provide the following:

- (a) Kitchen Sink. A 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 per Anoka City Code.
- (b) Food Storage. 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. The cabinets and/or shelves and counter or table shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

- (c) Stove and Refrigerator. A stove for cooking food and a refrigerator for the safe storage of food at or below forty (40) degrees Fahrenheit, which are properly installed with all necessary connections for safe, sanitary, and efficient operation. Such stove and refrigerator need not be installed when a dwelling unit is not occupied or 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 and refrigerator must be provided.
- (d) Toilet Facilities. Within every dwelling unit there shall be a non-habitable room which is equipped with a flush water closet in compliance. Such room shall have an entrance door which affords privacy. 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 all shall be connected to a sewer system in compliance with Anoka City Code.
- (e) Lavatory Sink. Within every dwelling unit there shall be a lavatory sink. The sink may be in the same room as the flush water closet, but 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 system and shall provide at all times an adequate amount of heated and unheated running water under pressure and shall be connected to a sewer system which complies with Anoka City Code.
- (f) Bathtub or Shower. Within every dwelling unit there shall be a non-habitable room which is equipped with a bathtub or shower in good working condition. Such room shall have an entrance door which affords privacy. Said bathtub or shower may be in the same room as the flush water closet, or in another room, and all 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 a sewer system which complies with Anoka City Code.

Section 48-5. Stairways, Porches and Balconies.

The owner shall keep every stairway, inside or outside of a building, and every porch or balcony shall be kept in safe condition and sound repair, including but not limited to the following: stairs and handrails; every porch, balcony, or deck which is 30 inches or more above grade shall have a guardrail; every handrail and guardrail 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 hazard; no flight of stairs shall have rotting, loose, or deteriorating support; excepting spiral and winding stairways, the treads and risers of every flight of stairs shall be essentially uniform in width and height; stairways shall be capable of supporting a live load of 100 pounds per square foot of horizontal projection.

Section 48-6. Access to Dwelling Units.

Access to or egress from each dwelling unit shall be provided without passing through any other dwelling unit.

Section 48-7. Door Locks.

No owner shall let or rent to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling or dwelling units are equipped with safe, functioning locking devices. Rental dwelling shall be furnished with door locks as follows:

- (a) Building Access. For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multiple-family dwellings with common areas, an approved security system shall be maintained for each multiple-family building to control access. The security system shall consist of locking building entrance or foyer doors, and

locked door leading from hallways into individual dwelling units. Dead-latch type door locks shall be provided with releasable lever knobs (or doorknobs) on the inside of building entrance doors and with locking devices on the outside of the building entrance doors. Building entrance door latches shall be of a type that are permanently locked.

- (b) Unit Access. Every door that provides ingress or egress for a dwelling unit within a multiple-family building shall be equipped with an approved lock that has a deadlocking bolt that cannot be retracted by end pressure, provided however, that such door shall be openable from the inside without the use of a key or any special knowledge or effort.
- (c) Existing Buildings. All multiple-family dwellings in existence at the time this ordinance is adopted, which were not previously required to have an approved security system, shall not be subject to the requirements of Section "Building Access" of this Chapter.

Section 48-8. Minimum Standards for Light and Ventilation.

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or rooming unit which does not comply the following requirements:

- (a) Habitable Room Ventilation. Except where there is supplied some other device affording ventilation and approved by the Building Official, every habitable room shall have at least one window facing directly outdoors which can be opened easily.
- (b) Electric Service, Outlets, and Fixtures. Every dwelling and rooming 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 a safe working condition, and shall be connected to a source of electric power in a manner prescribed by ordinances, rules, and regulations of the City of Anoka 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) A dwelling containing one or two dwelling units shall have at least the equivalent of 100 ampere, three-wire electric service per dwelling unit.
 - (2) Every habitable room shall contain one (1) electrical convenience outlet.
 - (3) Every water closet compartment, bathroom, kitchen, laundry room, and furnace room shall contain at least one (1) supplied ceiling-type or wall-type electric convenience outlet.
 - (4) Every public hall and public stairway in every multiple dwelling shall be adequately lighted to provide at least ten (10) foot candles of illumination of all parts thereof at all times by means of properly located electric light fixtures; provided that such electrical lighting may be omitted from sunrise to sunset where there are windows or skylights opening directly to the outside and where the total window or skylight area is at least one-tenth (1/10) of the combined horizontal area of the floor and stairway of each such public hallway and where such windows or skylight provide adequate natural light to all parts of each public hallway. Every public hall and stairway in dwellings containing two (2) dwelling units shall be supplied with convenient light switches, controlling an adequate lighting system that will provide at least ten (10) foot candles of illumination on all parts thereof, which may be turned on when needed.
 - (5) A convenient switch or equivalent device for turning on a light in each dwelling unit shall be located near the point of entrance to such unit.

Section 48-9. Minimal Thermal Standards.

- (a) No person shall occupy as owner, or let to another for occupancy any dwelling or rooming unit, for the purpose of living therein which does not have heating facilities which are properly installed and maintained in a safe and working condition and which are capable of safely heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein to a room temperature of at least 68 degrees Fahrenheit to be maintained from October 15th through April 15th.
- (b) 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.
- (c) Portable heating equipment employing flame and the use of liquid fuel does not meet the requirement of this section and is prohibited.
- (d) 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.

Section 48-10. General Requirements.

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or rooming unit for the purpose of living therein which does not comply with the following requirements.

- (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 structural deterioration or any other condition which might admit rain or dampness to the interior portion of the walls or to the interior spaces of the dwelling. The roof shall be tight and have no defects which admit rain and roof drainage and shall be adequate to prevent rain water from causing dampness in the walls. All exterior surfaces, other than decay resistant materials, shall be protected from the elements and decay by paint or other protective covering or treatment. If the exterior surface is unpainted or lacks protective coating or is determined by the Building Official to be deteriorated, the surface shall have a protective covering applied. If the exterior surface of the pointing of any brick, block, or stone wall is loose or has fallen out, the surface shall be repaired.
- (b) Windows, Doors, and Screens. Every window, exterior door, and hatchway shall be substantially tight and shall be kept in 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, vermin and rodents from entering the building.
- (c) Floors, Interior Walls, and Ceilings. Every floor, interior wall, and ceiling shall be 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 rotting flooring materials. Every interior wall and ceiling shall be maintained in a tight waterproof condition. Toxic paints or materials with a lasting toxic effect shall not be used. Every toilet room and bathroom floor surface shall be capable of being easily maintained.
- (d) Rodent Proof. Buildings found to be rodent infested shall be made rodent resistant. All opening in the exterior walls, foundations, basements, ground, or first floors, and roofs which have 1/4" 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 on the premises and all fences 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. Materials, other than decay resistant varieties, shall be protected against decay by use of paint or other preservatives.
- (f) Accessory Structure Maintenance. Accessory structures shall be structurally sound and be maintained in good repair. 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, porch and balcony, and appurtenance thereto shall be safe to use and capable of supporting normal structural loads.
- (h) Facilities to Function. All equipment or utilities required under city ordinances and every chimney and flue shall function effectively in a safe and working condition.
- (i) Grading and Drainage. Every yard, court, or passageway on the premises on which a dwelling stands shall be graded and drained so as to be free of standing water that constitutes a detriment to health and safety.
- (j) Yard Cover. Every yard of a premises on which a dwelling stands shall be maintained to prevent dust and erosion.

Section 48-11. Construction Standards.

All new construction and repair/renovation of existing structures within the City shall conform to the Minnesota State Building Code as the building code for the City.

Section 48-12. Maximum Density, Minimum Space, For Rental Units.

No person shall permit or let to be occupied any rental dwelling 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 rental dwelling or rooming unit shall be determined as follows:
 - (1) For the first occupant, 150 square feet of habitable 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, in the dwelling or rooming unit.
- (b) One Family Per Dwelling Unit. Not more than one family, except for temporary guests, shall occupy a dwelling unit.

Section 48-13. Enforcement and Inspection Authority.

- (a) The Property Maintenance Coordinator or his/her designee shall administer and enforce the provisions of this Chapter. Inspections shall be conducted during reasonable hours and the Property Maintenance Coordinator shall present evidence of his/her official capacity to the owner or occupant in charge of the property.

- (b) The identities of individuals who register complaints with the City concerning violations of State law or local ordinance concerning the use of real property shall be classified as confidential data pursuant to Minnesota Statutes, Section 13.03, Subd. 3., which states that such data is not public and is not accessible to the individual subject of the data. All other code violation records pertaining to a particular parcel of real property and the buildings, improvements, and dwelling units located on that property that are kept by the City shall be public data unless collected as part of an active civil investigation or legal action pursuant to Minnesota Statutes Section 13.99, or collected as part of an active criminal investigation pursuant to Minnesota Statutes Section 13.82, Subd. 7.

Section 48-14. Inspection Access.

If any owner, occupant, or other person in charge of a dwelling, dwelling unit, rooming unit, multiple dwelling or building fails or refuses to permit free access and entry to the structure or premises under his control, or any part thereof for purpose of an inspection authorized by this chapter, the Property Maintenance Coordinator may petition the court for an order for such inspection.

Section 48-15. Unfit for Human Habitation.

- (a) Any dwelling, dwelling unit, rooming unit, building or portion thereof which is damaged, decayed, dilapidated, moldy, unsanitary, unsafe, vermin or rodent infested, or which lacks provision for basic illumination, ventilation, or sanitation facilities, or has been used for the clandestine manufacture of illegal substances, to the extent that the conditions of the dwelling, dwelling unit, rooming unit, building or portion thereof poses a hazard to the health, safety, or welfare of the occupants or to the public may be declared unfit for human habitation. Whenever any dwelling, dwelling unit, rooming unit, or building has been declared unfit, the Property Maintenance Coordinator shall order same vacated within a reasonable time and shall post a placard on same indicating that it is unfit for human habitation, and any operating license previously issued for such dwelling shall be revoked.
- (b) It shall be unlawful for such dwelling, dwelling unit, or rooming unit, or portion thereof, to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the Property Maintenance Coordinator. No person other than the Building Official or his/her designee shall deface or remove the declaration placard from any such dwelling unit.

Section 48-16. Secure Unfit and Vacant Dwellings.

The owner of any dwelling, dwelling unit, rooming unit or building which has been declared unfit for human habitation or which is otherwise vacant for a period of sixty (60) days or more immediately shall make the 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, windows, or wall opening, if unguarded, shall be deemed to be a hazard to the health, safety, and welfare of the public and is a public nuisance within the meaning of this ordinance.

Section 48-17. Hazardous Building Declaration.

In the event that a dwelling, dwelling unit, rooming unit or building has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and may be removed, razed, or corrected pursuant to the provisions of Minnesota Statutes.

Section 48-18. Compliance Order.

Whenever the Property Maintenance Coordinator determines that any dwelling, dwelling unit, or

rooming unit, or portion thereof, is in violation of this or any other ordinance, he/she may issue a Compliance Order according to the City of Anoka Property Code Violation Procedure.

Section 48-19. Right to Appeal.

Any person who believes that a compliance order issued under this chapter is based upon erroneous interpretation of this chapter, or upon a misstatement or mistake of fact, such person may appeal the Compliance Order to the City Council. Such appeals must be in writing, must specify the grounds for the appeal, and must be accompanied by a filing fee as determined by the City Council and be submitted to the City Manager within ten (10) 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 stay would cause imminent peril to life, health, or property.

Section 16-20. City Council's Decision.

Upon at least five (5) business days' notice to the appellant of the time and place for hearing the appeal and within thirty (30) days after appeal is filed, the City Council shall hold a hearing thereon at which the City Council shall modify or affirm the order in whole or in part.

Section 48-21. Restrictions or Transfer of Ownership.

It shall be unlawful for the owner of any dwelling, dwelling unit, rooming unit, or building upon whom a pending Compliance Order has been served to sell, transfer, mortgage, or lease, or otherwise dispose thereof to another person until the provisions of the Compliance Order have been complied with, unless such owner shall furnish to grantee, lessee, or mortgagee a true copy of any notice of violation or Compliance Order and shall obtain and possess a receipt of acknowledgment. Anyone with an interest in the dwelling, dwelling unit, rooming unit, or building who has received notice of the existence of a Compliance Order shall be bound by same without further service of notice upon him/her and shall be liable for all penalties and procedures provided by this ordinance.

Section 48-22. Penalties.

Any person who fails to comply with a Compliance Order after a right of appeal has expired and any person who fails to comply with a modified Compliance Order within the time set therein, upon conviction thereof, shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

Section 48-23. Execution of Compliance Orders of Public Authority.

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 criminal penalty established hereunder notwithstanding, the City Council may by resolution cause the cited deficiency to be remedied as set forth in the Compliance Order. The cost of such remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by Minnesota Statutes, for any of the reasons set forth in Minnesota Statutes, and specifically for the removal and elimination of public health or safety hazards from private property, but the assessment shall be payable in a single installment. It is the intent of this section to authorize the City to utilize Minnesota Statutes to promote the public's health, safety, and general welfare.

CHAPTER 48. PROPERTY MAINTENANCE STANDARDS

ARTICLE II. Rental Licensing and Crime Free Housing.

Section 48-40. Purpose and Intent.

- (a) Purpose. The operation of rental residential properties is a business enterprise that gives rise to certain responsibilities. Operators are responsible to take reasonable steps, as may be necessary, to assure that the citizens of the City who occupy such units, and those residing near such units, may pursue the quiet enjoyment of the normal activities of life in surroundings that are:
- (1) Safe, secure and sanitary;
 - (2) Free from crimes and criminal activity, noise, nuisances or annoyances; and
 - (3) Free from reasonable fears about safety of persons and security of property.

Further, it is the intent of this Article to regulate and provide for the inspections of rental housing to assure that such housing does not become a nuisance or blight to the neighborhood and does not create a disincentive to investment in the community.

This Article establishes standards that are applicable to all rental dwellings in the City. It does not apply to the portion of a rental dwelling that is occupied by a personal owner or relatives of the personal owner.

Finally, the City Council finds that repeated police calls to certain rental dwellings in the City occupied by persons with criminal histories have taxed law enforcement resources. The City Council also finds that persons residing in rental dwelling who engage in disorderly conduct or cause nuisance conditions create a hostile environment for others living in close proximity, thereby threatening the public safety. In order to preserve and protect the City's neighborhoods and to promote public safety, the City Council enacts a Crime Free Rental Program into the City Code.

Section 48-41. Definitions.

The following definitions, and those contained in Article I will be used in interpreting and enforcing this Article.

Agent. A person designated by the Owner of a rental property to act on behalf of the Owner.

City. The City of Anoka, Minnesota.

Disorderly Conduct. For the purposes of this section, disorderly conduct may include, but is not limited to the following:

1. Drug related illegal activity.
2. Acts of violence or threats of violence including but not limited to, discharge of firearms, intimidation or any other act that otherwise jeopardizes the health, safety, or welfare of the owner, manager, agent, other tenants, tenant's family members, guests or neighboring property owners.
3. Creating, or allowing to continue, any hazardous or physically offensive condition which serves no legitimate purpose.
4. Repeated unfounded calls to police.

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5. Violation of M.S. § 609.72 (Disorderly conduct), as it may be amended from time to time.
6. Violation of M.S. §§ 609.66, subd.1a, 609.67 or 624.713 (Unlawful use or possession of a firearm or weapon), as they may be amended from time to time.
7. Violation of M.S. § 609.50 (Obstructing legal process), as it may be amended from time to time.
8. Violation of M.S. § 609.74 and 609.745 (Public nuisance), as they may be amended from time to time.
9. Violation of M.S. § 145A.02, subd. 17 (Public health nuisance), as it may be amended from time to time.
10. Violation of M.S. § 609.321, 609.322, and 609.324, (Solicitation, inducement, and promotion of prostitution, housing individuals engaged in prostitution) as they may be amended from time to time.
11. Violation of M.S. § 609.282, 609.283, 609.284, (Labor and sex trafficking crimes), as they may be amended from time to time.
12. Violation of M.S. § 609.33, relating to 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.
13. Violation of M.S. § 609.713, (Threats of violence), as they may be amended from time to time.
14. Violation of M.S. § 609.715, (Unlawful Assembly), as it may be amended from time to time.
15. Violation of M.S. § 609.71, (Riot), as it may be amended from time to time.
16. Violation of Chapter 10 of the Anoka City Code pertaining to restrictions on animals.
17. Violation of Anoka City Code 38.1 (Unreasonable Noise).
18. Violation of Anoka City Code 42.65 (Social Host).
10. Violation of Anoka City Code 46.-61 (Firearms Discharge).

Drug Related Illegal Activity. Means the illegal possession or constructive possession, manufacture, sale, distribution, purchase, use or possession with intent to manufacture, sell, or distribute a controlled substance as defined in the Controlled Substance Act [21 U.S.C. 802], or possession of drug paraphernalia per Minnesota Statutes.

Licensee. A person, firm or corporation that obtains a rental license from the City. For the purposes of this Article, "Licensee" and "Property Owner" may be considered one-in-the-same, and the terms "Licensee" and "Property Owner" may be used interchangeably when it makes sense to do so.

Major Life/Safety Issues. Hazardous conditions that pose a risk to the life and safety of occupants including, but not limited to, faulty or malfunctioning smoke detectors, handrails, guardrails and egress.

Nuisance call. Any instance where law enforcement officers are called to a property in response to a valid complaint related to disorderly conduct.

Rental Lease. A written contract between an owner, agent, or manager and a tenant(s), whereby the tenant makes rent payments or other form of compensation in order to occupy the rental dwelling. The rental lease also includes language that relates to the obligations of both parties to the contract and has the same meaning as a rental agreement.

Rental License. A permit granted by the City that grants the property owner the right to rent.

Tenant(s). A person or persons who rent a rental dwelling.

Valid complaint. A violation that is visible at the time of inspection or proven by credible, substantial evidence to the satisfaction of the City.

Meaning of certain words. Wherever the terms "dwelling," "dwelling unit," "premises," and "structure," are used in this Article, they shall be construed as though they were followed by the words "or any part thereof".

Section 48-42. License Required.

- (a) License. No person, firm or corporation shall operate a rental dwelling unit without first having obtained a license to do so from the City as provided for in this Article. Each license shall be issued triennially and expire on *December 31st*, three (3) years following the issuance thereof. License renewal applications for the following three (3) years shall be filed on or before *November 1st* of the year prior to the license expiring. On or before October 1st, the City shall notify the operator of the upcoming November 1st deadline within which to file the License renewal application by November 1st.
- (b) Exceptions from rental licensing.
 - (1) Rental property which is licensed as a Nursing Home, Assisted Living, or Boarding Care home by the State of Minnesota Department of Health shall be exempt from the license required under this Article. This exception shall not apply if no services are provided to the occupants, or the services are incidental to, or independent of, the landlord/occupant relationship. Notwithstanding the licensure requirements of such facilities, said facilities must register with the City.
 - (2) State licensed residential facilities that do not provide overnight residential services. Notwithstanding the licensure requirements of such facilities, said facilities must register with the City.
 - (3) A single family dwelling or a dwelling unit in a duplex occupied by a Property Owner for a minimum of six (6) consecutive months per calendar year.
 - (4) A residential property owned by a 'snowbird' where the property is rented to another person for a period of less than 120 consecutive days while the Owner is residing out of the State of Minnesota. The Property Owner must occupy the property during the remainder of the year.
 - (5) Unoccupied dwelling units that have been issued a vacant building registration.
 - (6) A single family residential property that has been sold on a contract for deed or has been sold as "rent to own" so long as the purchaser occupies the property and the sale document used to memorialize the sale is in the form of a uniform conveyancing blank or is recorded with the Anoka County Recorder's office and a copy is provided to the City upon request.
 - (7) A single family residential property that is occupied by the Owner and two or less occupants where the Owner and the occupants share all living space within the dwelling.

- (8) Single family residential property that is owned by a member of the armed services who is on active duty and the property is rented to another person during the time of active duty. The Owner must provide the City with a copy of the Owner's military orders and must occupy the property when not on active duty as the Owner's primary residence.
- (c) Owner/Manager Training Required. Prior to receiving or renewing a license, Operators of rental dwellings must attend, at a minimum, the Phase I crime-free housing educational course or similar course as approved by the City Manager, designated employee, or agent, as a condition of receiving or renewing a license. The cost of attending the educational requirements under this section shall be paid by the Operator, in addition to any license and inspection fees. The City may require an Operator to re-attend the course if their rental property produces nuisance calls in a number that would violate this Article or if repeated criminal activity is documented at the property. The City may allow an Operator to attend the course within six (6) months of receiving or renewing a license, provided that the Operator submit documentation of course registration for a date within the following six (6) months.

Section 48-43. Application for License.

- (a) The rental Property Owner or the Owner's designated agent shall submit a written application for a rental license on forms provided by the City.
- (b) Prior to issuance or renewal of a rental license, the following information shall be submitted:
 - (1) Name, address, email address, and phone number of the Property Owner.
 - (2) Name, address, email address, and phone number of the Property Manager if different from the property owner.
 - (3) Name, address, email address, and phone number of the designated agent.
 - (4) The street address and property identification number of the property.
 - (5) Description of the number of units and number of bedrooms in each unit offered for rent.
 - (6) An acknowledgement that the Owner or designated agent has received a copy of this Ordinance.
 - (7) A description of the procedure through which occupant inquiries and complaints are to be processed.
 - (8) Certification to the City that there are no delinquent utility fees due upon the parcel of land to which the rental housing license application relates.
 - (9) A blank copy of any written lease to be used for occupants including the following lease addendums:
 - a. Crime Free/Drug Free Addendum.
 - b. Lead Free informational materials for pre-1978 properties, including all information as may be required by Federal law.
 - (10) Documentation showing that criminal background checks are conducted on prospective occupants prior to letting of a property.

Section 48-44. Agent Required.

Any Property Owner who does not live in the state shall appoint, on the license application, an agent residing within fifty (50) miles of the rental property upon whom the City may serve notices pertaining to the licensed dwelling unit(s).

Section 48-45. Initial License Issuance.

No license shall be issued under this Ordinance unless the rental dwelling and its premises conform to the Ordinances of the City and laws of the State. An inspection of the dwelling unit shall be conducted prior to issuance of an initial rental license.

Section 48-46. Renewal of License.

- (a) All renewed and new rental licenses shall be valid for a period of up to three (3) years.
- (b) All rental license renewal applications and required fees shall be submitted to the City on a triennial basis and prior to the issuance of a renewed rental license.
- (c) Information on the rental license renewal form must be updated to reflect current conditions.
- (d) No license shall be renewed under this Ordinance unless the rental dwelling and its premises conform to the Ordinances of the City and laws of the State. An inspection of the dwelling unit may be conducted prior to issuance of a renewed rental license.

Section 48-47. Transfer of License.

A rental license is nontransferable and shall automatically terminate within thirty (30) days of closing on the sale of the licensed building unless, within thirty (30) days of said closing, the new Owner applies for and is granted a rental license for said building in accordance with this Article.

Section 48-48. Inspections of Dwellings – generally.

- (a) New licenses. Upon receipt of a properly executed new application for licensing and receipt of the appropriate fee, the Property Maintenance Coordinator or his/her designee shall conduct an initial inspection of the premises to assure compliance with the City Code.
- (b) License renewal. Any rental dwelling may be re-inspected after a renewal application is filed to determine compliance. The Property Maintenance Coordinator, or his/her designee, at his/her discretion, may determine that a renewal inspection of a premise may be deferred based on results of previous inspections, in conjunction with criteria and processes as established by the Property Maintenance Coordinator and approved by the City Manager. Previous inspections must indicate the premise (1) has not received notice of City Code violations for property maintenance; (2) meets or exceeds rental compliance criteria; and (3) has not required corrections for major life/safety issues.
- (c) Additional inspections. The City shall inspect every rental unit at least once every three (3) years. The City may inspect any rental unit if it falls within one or more of the following criteria:
 - (1) The unit has been abandoned by the Owner or the Owner of such unit cannot be found.
 - (2) Water, gas, or electric services to such unit has been discontinued as a result of nonpayment for more than 30 continuous days.
 - (3) The unit is on a parcel of land that is on the County's delinquent tax list.

- (4) The City has probable cause to believe that there exists within such unit one or more violations of the requirements of this Chapter.
 - (5) The property owner of the rental unit has, within the preceding six (6) months, renewed a license after suspension or revocation.
 - (6) The unit is the subject of a pending notice of the City's intent to suspend or revoke the rental license.
 - (7) An occupant or neighboring Property Owner files a formal complaint with the City relative to the condition of the unit or premises.
 - (8) The unit has not been inspected in the preceding three (3) years.
- (d) Access for Inspections.
- (1) The Property Maintenance Coordinator, or his/her designee, shall be authorized to make or cause to be made inspections to determine the condition of dwellings, multiple dwellings, dwelling units, rooming houses, rooming units, and premises in order to safeguard the health, safety, morals, and welfare of the public.
 - (2) The Property Maintenance Coordinator, or his/her designee, shall be authorized to enter any dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit, or premises at any reasonable time for the purpose of performing his/her duties under this Article.
 - (3) The owner, operator, or occupant of every dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit, and premises, or the person in charge thereof, shall give the Property Maintenance Coordinator, or his/her designee, free access to such dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit and premises on which it is located at all reasonable times for the purpose of such inspection, examination and survey.
- (e) Refusal of access for inspection. If the owner, operator, person in charge, or occupant shall refuse to consent to the inspection, an administrative search warrant may be obtained:
- (1) Where there is probable cause to believe a violation exists within the particular structure; or
 - (2) Where a determination has been made to conduct periodic inspections of certain areas of the City to assure ongoing compliance with this Chapter relative to major life/safety issues.
- (f) Emergency Conditions. No administrative search warrant is needed where an emergency condition exists which endangers persons or property and insufficient time is available to obtain the warrant and protect such endangered persons or property.
- (g) Police and Fire Access. The owner of any multi-family rental property shall install police and fire lock boxes near exterior entrance doors. This requirement shall only apply to multi-family properties that are required by the Chapter to maintain security systems on building entrances.
- (h) Subject to Occupant's Right to Privacy. Entry under this Section is subject to Minnesota Statutes, Section 504B.211 (Residential Tenant's Right to Privacy) as amended.
- (i) Costs of Obtaining Warrant. If the City finds it necessary to obtain an administrative search warrant to enter the property for inspection due to the Property Owner, operator,

person in charge, or occupant's lack of cooperation, said person or persons may also be charged with all costs of obtaining the warrant, including court costs and attorney's fees.

Section 48-49. License Suspension, Revocation, Denial and Non-Renewal.

- (a) Process for consideration of license suspension, revocation, denial or non-renewal.
 - (1) No action will be taken by the City Council to revoke, suspend, deny, or not renew a rental license without a public hearing and written notice of that hearing is sent to the property owner and affected occupants a minimum of ten (10) days prior to the hearing.
 - (2) The Council shall give due regard to the frequency and seriousness of the violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply.
 - (3) The Council shall issue a decision to revoke, suspend, deny or not renew a rental license only upon written findings.
 - (4) Upon a decision to revoke, suspend, deny or not renew a license, no new application for the same facility will be accepted for a period of time specified in the Council's written decision, not exceeding one (1) year. Such new applications shall be accompanied by a reinstatement fee as required by this Article.
 - (5) The Council may suspend, revoke, deny or not renew a license for part or all of a facility.
 - (6) A written decision to revoke, suspend, deny or not renew a license or application for part of a facility shall specify the part or parts of the facility to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the facility may be re-let or occupied.
 - a. Revocation, suspension, denial or non-renewal of a license shall not excuse the owner from compliance with all terms of this Article for as long as any units in the facility are occupied.
 - b. Failure to comply with all terms of this Article during the term of revocation, suspension, denial or non-renewal is a misdemeanor and grounds for extension of the term of such revocation or suspension or continuation of non-renewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation, denial or non-renewal specified in the City Council's written decision.
- (b) Suspension.
 - 1. The City Council may suspend a rental license under the following circumstances:
 - a. Failure to correct deficiencies noted in notices of violation within the time specified in the notice.
 - b. Failure to pay any license, inspection or reinstatement fee required by this Article.
 - c. Any other violation of the Building Code or the property maintenance, zoning, environmental or utility chapters of the City Code.

- d. Any specific provisions of the City ordinances that include suspension as a remedy (i.e. nuisance calls, etc.).
 2. Additional standards related to suspension of a rental license:
 - a. A reinstatement fee as established by the City Council shall be paid prior to reinstatement of a rental license that has been suspended.
 - b. In addition to the reinstatement fee, the City may issue a citation for the applicable violations.
 - c. While under suspension, the Property Owner cannot lease the affected unit and/or facility to a new occupant.
 - d. The suspension shall be for a period of up to six (6) months unless otherwise regulated by this Article.
- (c) Revocation.
1. The City Council may revoke a rental license under the following circumstances:
 - a. When a Property Owner has not complied with reinstatement criteria.
 - b. When it is found that a Property Owner has given false statements on any application or other information or report required by this Article to be given by the applicant or licensee.
 - c. When it has been determined through an inspection that major life/safety issues exist on the property.
 - d. When the Property Owner or designated agent has been convicted of a crime related to the type of business licensed and failure to show, by competent evidence, rehabilitation and present fitness to perform the duties of the business.
 - e. Operating or allowing the rental property to be used in such a manner as to constitute a breach of the peace, a menace to health, safety and welfare of the public or a disturbance of the peace or comfort of the residents of the City, upon recommendation by the Police Chief.
 - f. Failure to schedule and/or allow rental or building inspections of the licensed premises, for the purpose of ensuring compliance with rental licensing requirements, City Code requirements, State building codes, or other applicable State or Federal law.
 - g. Real estate or personal property taxes on the business have become delinquent and the Property Owner and the applicant are the same person or entity, or have any common ownership where they are a different person or entity.
 - h. Failure to actively pursue the eviction of occupants who have violate d the provisions of the Crime Free Lease Addendum.
 - i. Any specific provisions of the City Ordinances that include revocation as a remedy (i.e. nuisance calls, etc.)
 - j. Other good cause as determined by the City Council.

2. Additional standards related to revocation of a rental license:
 - a. A reinstatement fee as established by the City Council shall be paid prior to reinstatement of a rental license that has been revoked.
 - b. In addition to the reinstatement fee, the City may issue a citation for the applicable violations.
 - c. While under revocation, the Property Owner cannot extend the lease of an existing occupant and cannot lease the affected unit to a new occupant.
 - d. The revocation shall be for a period of up to one (1) year.

Section 48-50. Display of License.

Licenses issued under this Article must be conspicuously posted in a frame with a transparent cover in a public corridor or front entrance of rental dwellings with four or more units. All rental Property Owners must produce a copy of the rental license upon demand of a prospective occupant or City official.

Section 48-51. Fees.

- (a) License Fees.
 - (1) Fees Established and Due Date. Rental license fees and reinstatement fees shall be set by the City Council and shall be due with submission of a new or renewal application. Upon request by the Property Owner, license fees may be rebated on a pro-rated basis if a property ceases to operate as a rental dwelling before the end of the license period.
 - (2) Filing Due Date and Penalty. If a renewal application is made less than sixty (60) days before the beginning date of the renewal license period applied for, then the fee shall be accompanied by an additional amount equal to one hundred percent (100%) of such license fee. The additional amount shall be a penalty for a late application. In no case shall there be a lapse in the license period.
- (b) Reinspection Fees.
 - (1) An initial inspection shall be required at the time of application, the cost of which shall be included in the license application fee. A reinspection to verify compliance will be conducted at no charge. A fee, as set by the City Council, may be charged for any subsequent reinspection necessitated by receipt of a valid complaint or as a result of a previous unsatisfactory inspection.
 - (2) The reinspection fee shall be billed directly to the Owner or contact person/agent of the property. Reinspection fees shall be increased by fifty percent (50%) to cover administrative costs if not paid within thirty (30) days after initial billing.

Section 48-52. Tenant Background Checks and Roster.

As a condition of the license, the Licensee must, as a continuing obligation, conduct criminal background checks on all prospective tenants and maintain a current roster of tenants and other persons who have a lawful right to occupy the rental dwelling or rental dwelling units. If the criminal background check results in the discovery of an active warrant, the Licensee must notify the Anoka Police Department. The Licensee must designate the name of the person or persons who will have possession of the roster and must promptly notify the Property Maintenance Coordinator, or his/her designee, of any change in the identity, address or telephone numbers of this person or persons. The roster must be available for inspection by City officials upon request.

If a person under investigation by the City claims a lawful right to occupy a rental dwelling unity or be present on the rental property, the Property Maintenance Coordinator, or his/her designee, may request to inspect the lease for the unit in which the person claims to reside. Upon such request, the Licensee, or his/her designee, shall provide the lease for inspection.

Section 48-53. Conversion of a Single-Family Residential Property From Owner-Occupied to Rental.

- (a) Conversion Fee. A one-time fee, in addition to the annual rental license fee, will be charged for a single family dwelling or single family attached dwelling (townhouse) that is converted from owner-occupied to rental property. A conversion fee will not be required for single-family rentals that are managed by a professional property management company that is licensed by the City of Anoka. The City must be notified of any change in management during the license term.

Section 48-54. Disorderly Conduct and Nuisance Police Calls for Service.

During the term of the rental license, and any re-licensure, whereby nuisance calls related to the property occur in any consecutive twelve (12) month period following the first nuisance call, the following shall apply:

- (a) First Nuisance Call: Upon determination by the Police or Building Official that a rental dwelling was the location in violation, the property owner or agent may be notified of the violation.
- (b) Second Nuisance Call: If a second instance of disorderly conduct or nuisance conditions occur at the same unit, the property owner or agent will be notified of the violation.
- (c) Third Nuisance Call. Upon a third nuisance call, the property owner will be notified of the violation. Notification may occur through acknowledged email correspondence or by mail, with a copy to the occupant. The property owner must respond within ten (10) days from the date of the letter with a written report of actions taken to abate further nuisances on the property. If the Property Owner fails to respond, the Property Owner will be assessed a nuisance fee.
- (d) Fourth Nuisance Call. Upon a fourth nuisance call, or if the nuisance fee is not paid from the third call within ten (10) days of being issued, the City Council may consider suspension of the rental license.
- (1) If the City Council suspends the rental license, the Property Owner must pay a reinstatement fee as established by the City Council.
- (2) The suspension may be for a period of up to three (3) months.
- (e) Additional Nuisance Call. If another nuisance call occurs, following the action taken in subpart (c), the City Council may consider revocation of the license.
- (1) The revocation may be for a period of up to one (1) year.
- (f) The nuisance fee shall be as established by the City Council.
- (g) For purposes of this Section, second, third and subsequent nuisance calls shall be those which:
- (1) Occur at the same rental dwelling unit; or
- (2) Involve occupants at the same rental dwelling unit; or
- (3) Involve guests or invitees at the same rental dwelling unit; or

- (4) Involve guests or invitees of the same occupant; or
 - (5) Involve the same occupant.
- (h) Postponing License Action. No adverse license action shall be imposed where:
- (1) the nuisance calls occurred during pending eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by the Licensee to an occupant to vacate the rental dwelling unit. However, adverse license action may proceed when the Licensee fails to diligently pursue the eviction process; or
 - (2) the calls are placed by a residential occupant for police or emergency assistance in response to medical calls, domestic abuse or any other conduct.
- (i) An action to deny, revoke, suspend, or not renew a license based upon violation of this section may be postponed or discontinued at any time if it appears that the Licensee has taken appropriate measures which will prevent further nuisance calls.

Section 48-55. Trash Removal for Rental Properties.

- (a) Rental properties must have regularly scheduled recycling and trash pick-up.
- (b) If the trash and/or recycling has not been removed within seven (7) days of the normally scheduled pick-up, the trash will be removed under emergency abatement procedures.
- (c) If the lack of trash and/or recycling removal becomes a recurring problem, refuse service will be authorized by the City and will be assessed on the property's utility bill.

Section 48-56. No Retaliation.

No Licensee shall evict, threaten to evict, or take any other punitive action against any occupant who, by reason of good faith, calls City officials related to public safety or property maintenance concerns. This Section shall not prohibit the eviction of occupants from a rental dwelling for unlawful conduct of an occupant or invitee for violations of any rules, regulations, or lease terms other than a prohibition against contacting City officials.

Section 48-57. Summary Action.

When the conduct of any Licensee or their agent, representative, employee or lessee or the condition of their dwelling is detrimental to the public health, safety and general welfare as to constitute a nuisance, fire hazard, or other unsafe or dangerous condition and thus give rise to an emergency, the City shall have the authority to summarily condemn or post for no occupancy such area of the rental dwelling.

Section 48-58. Severability Clause.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article.

Section 48-59. Violations and Penalties.

Any person violating any provision of this Article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

Sections 48-60 through 48-69. Reserved.

CHAPTER 48. PROPERTY MAINTENANCE STANDARDS

Article III. Vacant Building Registration Program.

Section 48-70. Purpose.

The purpose of this article is to protect the public health, safety and welfare by establishing a program for identification and registration of vacant buildings and determining the responsibilities of owners of such structures.

Section 48-71. Definitions.

The definitions contained in Article I of this chapter apply herein. In addition, the following definitions shall apply in interpretation and enforcement of this Article.

Dangerous Structure means a structure that is potentially hazardous to persons or property, including, but not limited to: (a) a structure that is in danger of partial or complete collapse; (b) a structure with any exterior parts that are loose or in danger of falling; or (c) a structure with any parts, such as floors, porches, railings, ramps, balconies or roofs, that are accessible and that are either collapsed, in danger of collapsing or unable to support the weight of normally imposed loads.

Secured by other than normal means refers to a building secured by means other than those used in the design of the building.

Unoccupied means a building, which is not being used for a legal occupancy.

Unsecured means a building or portion of a building that is open to entry by unauthorized persons without the use of tools.

Vacant building means a building or portion of a building that is:

- (a) Unoccupied and unsecured for five (5) days or more;
- (b) Unoccupied and secured by other than normal means for thirty (30) days or more;
- (c) Unoccupied and a dangerous structure;
- (d) Unoccupied and posted for no occupancy or unfit for human habitation;
- (e) Unoccupied and has a City code violations existing for thirty days or more; or
- (f) Condemned and illegally occupied;
- (g) Vacant building does not mean any building being constructed pursuant to a valid building permit issued pursuant to City building code regulations; or a vacant building that has no City code violations, is not posted for no occupancy or unfit for human habitation and is secured by normal means.

Section 48-72. Vacant Building Registration.

- (a) The owner of a vacant building shall register such structure with the City's property maintenance coordinator not later than thirty (30) days after said building becomes a vacant building, as defined in this article.
- (b) The registration shall be submitted on forms provided by the City. The completed form shall include the following:
 1. A description of the premises.
 2. The names and addresses of the owner or owners.
 3. The names and addresses of all lien known lien holders.

4. The period of time the building is expected to remain vacant.
 5. A plan and timetable for returning the building to appropriate occupancy and/or making the structure compliant with all City ordinances or for demolition of the building. The plan must be approved by the City Building Official or Property Maintenance Coordinator and shall require completion of the plan within a reasonable period of time not to exceed three hundred sixty five (365) days. Such plan shall include all conditions that are to be corrected, the estimated value of the project(s) required to complete the plan and a plan for continued care and upkeep of the property consistent with this chapter.
 6. Other information deemed necessary by the City to process the registration.
- (c) The owner shall comply with all applicable laws and codes and shall notify the City's property maintenance coordinator of any changes in information supplied as part of the vacant building registration within thirty (30) days of the change. If the plan or timetable for the vacant building is revised in any way, such revisions must meet the approval of the City.
 - (d) The owner and any subsequent owners shall keep the vacant building secured and safe and the building and grounds maintained until the rehabilitation or demolition has been completed. Residential vacant buildings shall not be used for storage.
 - (e) Failure of the owner or any subsequent owner to maintain the vacant building and premises such that abatement by the City is required shall be grounds for revocation of the approved plan and the owner shall be subject to any applicable penalties provided by law.
 - (f) Any new owner(s) shall register or re-register the vacant building with the City's property maintenance coordinator within thirty (30) days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted to and meet the approval of the City.

Section 48-73. Vacant Building Registration Fees.

- (a) The owner(s) of a vacant building shall pay an annual registration fee as established by the City Council. This fee is imposed to defray the administrative costs for registering and processing the vacant building registration form and the costs of the City in monitoring the vacant building site.
- (b) The first annual registration fee shall be paid no later than thirty (30) days after the building becomes vacant. Subsequent annual registration fees shall be due on the anniversary date of initial vacancy.
- (c) The registration fee shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit.

Section 48-74. Posting of Registration.

- (a) Proof of registration must be posted in public view within ten (10) days after receipt of the registration.
- (b) Failure to post proof of registration as provided in this section shall be considered a separate violation of this article.

Section 48-75. Inspections.

A vacant building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with

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the provisions of this chapter.

Section 48-76. Hardship.

In cases of hardship, any person aggrieved by the requirements of this Article may apply to the City Council for waiver of all or a portion of the applicable restrictions. A waiver may be granted where the City Council finds substantial hardship caused by the restrictions of this Article and finds the waiver will not unduly affect the integrity of the purposes for which this Article is enacted.

Section 48-77. Right to Appeal.

Any person who believes that an order issued under this Article is based upon erroneous interpretation of this Article, or upon a misstatement or mistake of fact, such person may appeal the order to the City Council. Such appeals must be in writing, must specify the grounds for the appeal, and must be accompanied by a filing fee as determined by the City Council and be submitted to the City Manager within ten (10) business days after service of the order. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from unless such stay would cause an imminent peril to life, health or property.

Section 48-78. Penalties.

Any person violating any provision of this article or providing false information to the City shall be punished as provided in the penalties section of this Chapter.

Sections 48-79 through 48-99. Reserved.

CHAPTER 48. PROPERTY MAINTENANCE STANDARDS

ARTICLE IV Condition of Premises

Section 48-100. Causes of Blight or Blighting Factors.

(a) It is hereby determined that the uses, structures and activities and abuses of blight or blighting factors described in this article, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the city owned, leased, rented or occupied by such person.

- (1) In any area, the storage or accumulation of junk motor vehicles, trash, junk, rubbish, or refuse of any kind; is prohibited.

For the purpose of this section, the term "junk" shall include parts of machinery or parts of motor vehicles; unused stoves or other appliances stored in the open; remnants of wood; decayed, weathered, or broken construction materials no longer suitable for safe, approved building materials; metal or any other material or cast off material of any kind whether or not the same could be put to any reasonable use.

For the purpose of this section, the term "junk motor vehicle" shall include any automobile, snowmobile, truck, motorcycle, or any motor vehicle as defined in Minnesota Statute 169.01, Subdivision 3, part of a motor vehicle or former motor vehicle stored in the open which is (1) unusable or inoperable because of lack of or defects in component parts; (2) unusable or inoperable because of damage from collision, deterioration, or having been cannibalized; (3) beyond repair, and, therefore, not intended for future use as a motor vehicle; or (4) being retained on the property for possible use of salvageable parts; or (5) is not properly and currently licensed within the State of Minnesota..

- (2) In any area the existence of any structure or part of any structure which because of fire, wind, or other natural disaster, or physical deterioration is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended.
- (3) In any area, the existence of any vacant dwelling, garage or other out-building, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.
- (4) In any area the existence of any noxious or poisonous vegetation such as poison ivy, ragweed or other poisonous plants, or any weeds, grass, brush or plants, which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood.

Section 48-101. Outdoor Storage.

- (a) In any area zoned as a residential district (R-1, R-2, R-3, R-4, R-5) or in any other zone on a lot which is occupied by a dwelling unit all personal property shall be stored within a building, or within a rear yard, shall be screened with vegetation or a fence to serve as a buffer between adjoining properties and public streets.

- (1) For the purpose of this section, the term "outdoor storage" shall include, but not be limited to the following items; toys, bikes, bike/skate ramps, canoes, paddleboats, fishing boats, truck toppers, snowmobiles, fish houses, lawnmowers, snow blowers, lawn/garden equipment, hunting blinds/stands, 4-wheelers and ATV's.
- (2) Items stored within the rear yard shall be stored at a minimum of five (5) feet from the property line.
- (3) Outdoor storage of the following items shall be limited to two (2) in number and such items shall not be stored in the same location for a period of more than one (1) year; canoes, paddleboats, fishing boats, truck toppers, snowmobiles, fish houses, lawnmowers, snow blowers, hunting blinds/stands, 4-wheelers and ATV's.
- (4) Outdoor storage shall be permitted in the front and side yards during times of use, not to exceed a period of 48 hours.
- (5) The following items are exempt from the foregoing outdoor storage prohibitions;
 - a. clothesline poles and lines
 - b. patio furniture
 - c. barbecue grills
 - d. permanent recreational equipment
 - e. ornamental yard enhancements (landscaping, light poles, trellises, benches designed for exterior use and other permanent improvements designed to enhance the appearance of the yard),
 - f. trampolines
 - g. construction and landscaping material, which shall be consumed or used on the property within thirty (30) days of initial storage and kept in a neat, workman like pile, stacked a minimum of four (4) inches above ground surface.
- (6) Stacked firewood is permitted in the side or rear yard a minimum for five (5) feet from the property line, stacked a minimum of four (4) includes above ground surface, and the stack shall be no higher than six (6) feet.
- (7) All stored vehicles and recreation equipment shall be currently licensed as required by Minnesota State Statutes.
- (8) Carports must be attached to the dwelling or garage. If the carport consists of one or more sides (excluding the common wall of the carport and house or garage), each side shall be constructed of materials that are similar or complementary to the building that the carport is attached to (fabric or tart-like material is not permitted). The carport shall be used only for stored vehicles, trailers, and recreational equipment.

Section 48-102. Notice to Remove Violations, Effect of Failure to Comply with Notice.

- (a) The owner and occupant of any property upon which any of the causes of blight or blighted factors set forth in this Chapter is found to exist shall be notified in accordance with Chapter 1, Article II. Failure to comply with such notification shall be processed according to Chapter 1, Article II.

Section 48-103. Removal of Weeds, etc., by City.

- (a) In case of failure to remove any blight as defined in this Chapter, within the time prescribed, the City Manager may order the appropriate employee(s) to cut down and remove or otherwise destroy all such noxious, inflammable or detrimental vegetation; and in case of failure to remove junk, trash, rubbish or refuse as defined in this Chapter, the City Manager may order the appropriate employee(s) to remove and dispose of such junk, trash, rubbish or refuse; and in each of the foregoing instances the cost of the work shall be certified to the City Assessor, who shall certify such cost to the County Auditor as a special assessment against the property involved for collection in the same manner as other special assessments. As an additional or alternative remedy, the owners of any interest in the land and the occupant shall be jointly and severally liable for such costs and the costs shall be recoverable in any action brought against any of them in the name of the City.

Section 48-104. Violations and Penalties.

Any person violating any provision of this Article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in the Minnesota Statutes.

CHAPTER 48. PROPERTY MAINTENANCE STANDARDS

Article V. Vacant Buildings as a Public Nuisance.

Section 48-120. Purpose.

The purpose of this article is to protect the public health, safety and welfare by establishing a program for identifying vacant buildings as public nuisances and processes to abate such nuisances when necessary.

Section 48-121. Definitions.

The definitions contained in Article I and III of this Chapter apply herein.

Sections 48-122 Determining a Public Nuisance.

- (a) A building within the City shall be deemed a nuisance condition if the plan required to be submitted in Section 48-72(b) (5) has not been completed in the time frame approved.
- (b) In the event that a vacant building has been declared a hazardous building by the City Council in accordance with Minnesota State Statutes 463.15 through 463.26, any provisions of this article shall be waived and the process outlined in Minnesota State Statutes 463.15 through 463.26 shall be followed.

Section 48-123 Nuisance Hearing.

- (a) If the Building Official determines that the building is a nuisance condition, the Building Official may order a hearing before the City Council.
- (b) Notice of the hearing before the City Council shall be sent by regular and certified mail to the owner of the building determined to be a nuisance stating the date, time, and place of the hearing. In addition, notice of the hearing shall be sent to all property owners within three hundred fifty feet (350') of the subject property.
- (c) The City Council shall determine whether to extend the deadline of the plan submitted by the owner, or to proceed with abatement by rehabilitation. The City Council shall provide findings of facts for their determination. The Council shall take action within thirty (30) days of the hearing and such determination should be in the form of a resolution. The determination shall be personally served upon the owner of the property. If the owner of the property cannot be found, then the determination may be posted on the premises.

Section 48-124 Abatement by Rehabilitation.

- (a) The City Council may determine to abate the nuisance by rehabilitation to return the building to appropriate occupancy and/or bring the building into compliance with all City ordinances. The City shall complete conditions to be repaired that were outlined in the original approved plan submitted by the owner.
- (b) The City Building Official shall notify the owner of the cost incurred in rehabilitating the building and assess the cost. The City Clerk shall certify such cost as a special assessment to the property involved for collection in the same manner as other special assessments.
- (c) When the owner of a property that has received notice that the building is a nuisance condition and intends to sell an interest in the property, the owner must disclose to the

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purchaser that the building has been determined to be a nuisance condition.

Sections 48-125 through 48-140. Reserved.

CHAPTER 48. PROPERTY MAINTENANCE STANDARDS

Article VI. Sober House Licensing.

Section 48-141. Purpose and Intent.

It is the purpose of this Article to assure that sober housing in the City of Anoka is habitable, safe, and sanitary and is so operated and maintained as not to detract from the neighborhood or to become an influence that fosters blight and deterioration or creates a disincentive to reinvestment in the community.

It is the intent of this Article to establish uniform standards that are applicable to all sober house dwellings in the City.

Section 48-142. Definitions.

The definitions contained in Article I, of this Chapter apply herein. Additionally, the following definitions shall apply in the interpretation and enforcement of this Article.

Agent. A person designated by the owner of a sober house to act on behalf of the owner.

Multiple Dwelling. A building or portion thereof containing three or more dwelling units.

Rooming House. A residence unit or any part thereof containing one or more rooming units in which space is let by the owner or operator to three or more persons.

Sober House. A building, or any part thereof, maintained as, advertised as, or held out to be housing 1) For people currently enrolled in an addiction treatment program; 2) Where the main purpose of such housing is to provide recovery support while attending a sobriety program; or 3) Where the developing of life skills and/or a safe and nurturing environment is provided to assist residents with the process of assimilation into the mainstream of life.

Section 48-143. License Required.

No person, firm or corporation shall allow the use of a sober house in the City until a license has been applied for and issued by the City of Anoka. Any sober houses existing prior to the adoption of this Article must also follow and abide by the requirements set forth in this Article. A license is not required for those entities that are licensed by State or County government agencies affording the same safeguards and protections as set forth in this article.

Section 48-144. Application for License.

Applications for a sober house license shall be made in writing to the City by the owner of the sober house dwelling unit(s) or his/her designated agent. Prior to issuance or renewal of a sober house license, the owner shall submit a completed application to the Planning Department, pay an application fee as determined by City Council, and comply with all inspection requirements.

- (a) The following persons shall be authorized to sign and submit a sober house license application.
 - (1) If the owner is a natural person, by the owner thereof.
 - (2) If the owner is a corporation, by an officer thereof.
 - (3) If the owner is a partnership, by a partner thereof.

- (b) Before any license required by this Article shall be issued or renewed, the owner shall submit the following information on forms provided by the City:
- (1) Name, address and phone number of the property owner.
 - (2) Name, address and phone number of the property manager if different from the property owner.
 - (3) Name, address and phone number of the designated agent (if applicable).
 - (4) The street address and property identification number of the property.
 - (5) Description of the number of units and number of bedrooms in each unit.
 - (6) An acknowledgement that the owner or designated agent has received a copy of this ordinance.
 - (7) A management plan for the facility found to be acceptable by the City to ensure the legitimacy of the sober house.
 - (8) A floor plan showing dimensions and locations of bedrooms, common areas, kitchen, bathrooms, exits and any other rooms requested by the Property Maintenance Coordinator.

Section 48-145. Inspections of Dwellings – generally.

Upon receipt of a properly executed application for licensing and receipt of the appropriate fee, the property maintenance coordinator or his/her designee shall complete an initial inspection of the premises to determine whether the property is in compliance with this Chapter. Any sober house dwelling may be re-inspected after a renewal application or transfer of license is filed to determine compliance. The property maintenance coordinator or his/her designee shall further have the right to re-inspect the premises at any time it is deemed necessary to assure compliance with this Chapter.

- (a) The property maintenance coordinator or his/her designee shall be authorized to make or cause to be made inspections to determine the condition of dwellings, multiple dwellings, dwelling units, rooming houses, rooming units, and premises in order to safeguard the health, safety, morals, and welfare of the public. The property maintenance coordinator, or his/her designee, shall be authorized to enter any dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit, or premises at any reasonable time for the purpose of performing his/her duties under this Article. The owner, operator, or occupant of every dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit, and premises, or the person in charge thereof, shall give the property maintenance coordinator or his/her designee free access to such dwelling, multiple dwelling, dwelling unit, rooming house, rooming unit and premises on which it is located at all reasonable times for the purpose of such inspection, examination and survey.
- (b) If the owner, operator, person in charge, or occupant shall refuse to consent to the inspection, a search warrant may be obtained.
- (c) No warrant is needed where an emergency condition exists which endangers persons or property and insufficient time is available to obtain a warrant and protect such endangered persons or property.
- (d) Entry under this Section is subject to Minnesota Statutes, Section 504B.211 (Residential

tenant's right to privacy) as amended.

Section 48-146. Agent Required.

Any property owner who does not live in the state shall appoint, on the license application, an agent residing within the State of Minnesota upon which agent the City may serve notices pertaining to the administration of this Article or any provisions of the City Code pertaining to such dwelling unit.

Section 48-147. Length and Renewal of License.

The license period shall commence upon issuance of the license. A sober house license shall be issued for a period of one (1) year.

Section 48-148. Transfer of License.

A sober house license is transferable to any person who has actually acquired legal ownership of a licensed building for the unexpired portion of the term for which it was issued or reissued; provided, that the application to transfer such registration is filed with the City within thirty (30) days of closing and the transferee is not disqualified from holding a license due to prior revocation, suspension, or denial of a sober house license. The sober house license shall terminate upon failure to apply for its transfer within thirty (30) days of closing.

Section 48-149. License Suspension, Revocation, Denial and Non-Renewal.

- (a) The City Council may revoke, suspend, deny or decline to renew any sober house license issued under this Article upon any of the following grounds:
 - (1) False statements on any application or other information or report required by this Article to be given by the applicant or licensee.
 - (2) Failure to pay any license or reinstatement fee required by this Article.
 - (3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
 - (4) Any other violation of the property maintenance, zoning, environmental, and utility chapters of City Code.
- (b) No action will be taken by the City Council to revoke, suspend, deny, or decline renewal of a sober house license without a public hearing and written notice of that hearing is sent to the property owner, agent, and affected tenants a minimum of ten days prior to the hearing.
- (c) The Council shall give due regard to the frequency and seriousness of the violations, the ease with which such violations could have been cured or avoided, and good faith efforts to comply and shall issue a decision to revoke, suspend, deny, or decline renewal of a license only upon written findings.
- (d) The Council may revoke, suspend, deny or decline renewal of a license for part or all of a facility.
- (e) Upon a decision to revoke, suspend, deny or decline renewal of a license, no new application for the same facility will be accepted for a period of time as specified in the Council's written decision, which time shall not exceed one year. All new applications shall be accompanied by a reinstatement fee as required by this Article.

- (f) A written decision to revoke, suspend, deny or decline renewal of a license or application shall specify the part or parts of the facility to which it applies. Thereafter, and until a license is reissued or reinstated, no units becoming vacant in such part or parts of the facility may be re-let or occupied. Revocation, suspension, denial or non-renewal of a license shall not excuse the owner from compliance with all terms of this Article for as long as any units in the facility are occupied. Failure to comply with all terms of this Article during the term of revocation, suspension, denial or non-renewal is a misdemeanor and grounds for an extension of the term of such revocation, suspension, or non-renewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation, denial or non-renewal specified in the City Council's written decision or in paragraph (e) of this Section.

Section 48-150. Display of License.

Licenses issued under this Article must be displayed on the premises of sober house dwellings. All property owners must produce a copy of the sober house license upon demand of a prospective tenant or City official.

Section 48-151. Fees.

Sober house license fees and reinstatement fees are to be determined by the City Council.

Section 48-152. No Retaliation.

No licensee shall evict, threaten to evict, or take any other punitive action against any tenant who, by reason of good faith, calls city officials related to public safety or property maintenance concerns. This Section shall not prohibit the eviction of tenants from a sober house dwelling for unlawful conduct of a tenant or invitee for violations of any rules, regulations, or lease terms other than a prohibition against contacting city officials.

Section 48-153. Summary Action.

When the conduct of any license holder or their agent, representative, employee or lessee or the condition of their dwelling is detrimental to the public health, safety and general welfare as to constitute a nuisance, fire hazard, or other unsafe or dangerous condition and thus give rise to an emergency, the City shall have the authority to summarily condemn or post for no occupancy such area of the rental dwelling.

Section 48-154. Severability Clause.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article.

Section 48-155. Violations and Penalties.

Any person violating any provision of this Article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

Sections 48-156 through 48-175. Reserved.

CHAPTER 48. PROPERTY MAINTENANCE STANDARDS

ARTICLE VII. Registration and Regulation of Foreclosed Property

Section 48-176. Purpose.

The purpose of this Article is to protect the public health, safety, and welfare by establishing a program for the identification and registration of foreclosed properties and determine the responsibilities of owners or agents of such properties and provides for administration, enforcement, and penalties associated with the same.

Section 48-177. Findings.

Foreclosed properties have the potential to be a major cause and source of blight in residential and non-residential neighborhoods, especially when the owner or responsible party of the building fails to actively maintain and manage the property to ensure it does not become a liability to the neighborhood. There is a substantial cost to the City for monitoring foreclosed properties. This cost should not be borne by the general taxpayers of the community but rather these costs should be borne by those who have a financial interest in the property.

Section 48-178. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article:

City means City of Anoka, Minnesota.

Compliance Officer means the City Manager and the City Manager's designated agents authorized to administer and enforce Anoka City Code.

Foreclosed Property means any real property that includes the building and grounds located in the jurisdictional boundary of the City of Anoka that due to default of a financial agreement between a lender and purchaser has been placed in the legal process by the lender to recover said property.

Owner means the following individuals and/or entities initiating the legal process to recover foreclosed property shown on the records of the Anoka County Department of Property Taxation;

1. Those show to be the mortgage holder or their legal representatives.
2. Any person, partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in the property or building.

Responsible party means an owner, service provider, mortgagor, leasing agent, management company or similar person or entity who has direct or indirect control or authority over the building or real property upon which the building is located.

Vacant building means a building or in which no person or persons actually and currently conducts a lawful business or lawfully resides or lives in any part of the building on a permanent, non-transient basis in accordance with the City Code.

Section 48-179. Foreclosed Property Registration Process.

- (a) Application. The owner initiating foreclosure proceedings or responsible party acting as an agent for the owner must register a vacant building with the City no later than thirty (30) days of the initiation of foreclosure proceedings. The registration must be submitted

on a form provided by the City and shall include the following information supplied by the owner:

1. The street address and tax parcel identification number (PIN) of the premises on which the building is situated;
2. The name, address, telephone number, and email address, if applicable, of the owner holding title to the property or their representative; and
3. A maintenance plan indicating the name, address, telephone number, and email address, if applicable, of a person or company responsible for managing or maintaining the property.

- (b) Payment of Fees. The owner must pay an annual registration fee in an amount adopted by the City Council. The amount of the registration fee shall be reasonably related to the administrative costs for registering and processing the registration form and for the costs of the City in monitoring the vacant building site. The fee must be paid in full prior to the issuance of any building permits or licenses, with the exception of a demolition permit. If there are questions regarding the status of the property in regards to type of dwelling or code violations, the Compliance Officer of the City will perform an initial courtesy inspection of the exterior condition of the building and property.

Section 48-180. Responsibility of Owner.

The owner or responsible party of a foreclosed property will be required to comply with the following items:

- (a) Notification of Sale or Property Transfer. It is the responsibility of the owner or responsible party to inform the City should the property be sold or transferred to another party. If the property is not sold, but transferred to a different party, that party must re-register the property with the City within fifteen (15) business days of the transfer. Failure to re-register the building within fifteen (15) business days will result in a \$50.00 administrative fee being added to the annual fee.
- (b) Maintenance of Building and Grounds. It is the responsibility of the owner or responsible party to secure and maintain the building and grounds in compliance with City Code to include the following:
 1. Appearance. All vacant buildings must be so maintained and kept that they appear to be occupied.
 2. Securing. All vacant buildings must be secured from outside entry by unauthorized persons or pests. Security must be by the normal building amenities such as windows and doors having adequate strength to resist intrusion. All doors and windows must remain locked. There shall be at least one operable door into every building and into each housing unit. Exterior walls and roofs must remain intact without holes.
 3. Architectural (Cosmetic) Structural Panels. Architectural structural panels may be used to secure windows, doors and other openings provided they are cut to fit the opening and match the characteristics of the building. Architectural panels may be of exterior grade-finished plywood or Medium Density Overlaid plywood (MDO) that is painted to match the building exterior or covered with a reflective material such as plexi-glass to simulate windows.

4. **Temporary Securing.** Untreated plywood or similar structural panels or temporary construction fencing may be used to secure windows, doors and other openings for a maximum period of fourteen (14) days.

5. **“Artistic” board-up.** With prior approval of the Compliance Officer, artistic options may be utilized to secure a vacant building.

6. **Emergency securing.** The compliance official may take steps to immediately secure a vacant building at his or her discretion in emergency circumstances.

(c) **Fire Safety.**

1. **Fire protection systems.** Owners of non-residential vacant buildings must maintain all fire protection systems, appliances and assemblies in operating condition and maintain underwriter laboratories (UL) monitoring of all systems.

2. **Removal of hazardous and combustible materials.** The owner of any vacant building, or vacant portion thereof, must remove all hazardous material and hazardous refuse that could constitute a fire hazard or contribute to the spread of fire.

(d) **Plumbing fixtures.**

Plumbing fixtures connected to an approved water system, an approved sewage system, or an approved natural gas utility system must be installed in accordance with applicable codes and be maintained in sound condition and good repair or removed and the service terminated in the manner prescribed by applicable codes. The building’s water systems must be protected from freezing.

(e) **Electrical.** Electrical service lines, wiring, outlets or fixtures not installed or maintained in accordance with applicable codes must be repaired, removed or the electrical services terminated to the building in accordance with applicable codes.

(f) **Lighting.** All exterior lighting fixtures must be maintained in good repair, and illumination must be provided to the building and all walkways in the same manner as provided at the time the building was last occupied.

(g) **Heating.** Heating facilities or heating equipment in vacant buildings must be removed, rendered inoperable, or maintained in accordance with applicable codes.

(h) **Termination of utilities.** The Compliance Officer may require that water, sewer, electricity, or gas service to the vacant building be terminated or disconnected. Prior to the termination of any utility service, written notice must be given to the owner. No utility may be restored until consent is given by the Compliance Officer. Utilities may be discontinued at the request of the owner or responsible party as part of the approved plan. The Compliance Officer may authorize immediate termination of utilities at his or her discretion in emergency circumstances.

(i) **Signage.** Obsolete or unused exterior signs and installation hardware must be removed. Holes and penetrations must be properly patched and painted to match the building. Surfaces beneath the signs that do not match the building must be repaired, resurfaced, painted or otherwise altered to be compatible with the building surfaces. All signs must be maintained in good condition.

- (j) Exterior maintenance. The owner must comply with all applicable property maintenance regulations and City codes including, but not limited to, the following:
1. Public nuisances. The owner must eliminate any activity on the property that constitutes a public nuisance.
 2. Grass and weeds. Any weeds or grass must be no greater than six (6) inches in height.
 3. Exterior structure maintenance. The owner must maintain the vacant building in compliance with City Code.
 4. Abandoned or junk vehicles. The owner must remove abandoned and junk vehicles from the property.
 5. Storage and disposal of refuse. The storage and disposal of refuse must comply with the requirements of City Code.
 6. Animals. The owner must ensure that all animals are removed from the property and handled in a humane manner.
 7. Diseased, dead or hazardous trees. The owner must remove diseased, dead or hazardous trees or branches from the property.
 8. Graffiti. The owner must remove all graffiti from the property in accordance with City ordinance.
 9. Abandoned pools. Swimming pools must be maintained in good operating condition; treated to prevent pest harborage; or properly drained and emptied. Swimming pools must be secured.
 10. Removal of garbage and refuse. The owner of any vacant building, or vacant portion thereof, must remove all garbage, refuse, rubbish, swill, filth, or other materials from the vacant building and the property upon which the building is located.
 11. Police protection systems. The owner must properly maintain all alarm systems in any vacant building or portion thereof in operating condition.
 12. Loitering, criminal activities. Loitering or engaging in criminal activities is not allowed in the vacant building or on the real property upon which the vacant building is located. The owner or responsible party must not allow these activities and take immediate actions to eliminate these conditions once notified by the City.

Section 48-181. Emergency Abatement.

The Compliance Officer may authorize immediate abatement of any public nuisance or maintenance item if, in the discretion of the Compliance Officer, emergency circumstances exist that present an imminent threat to the public health and safety.

Section 48-182. Compliance.

- (a) Other Codes. All other City Codes and applicable regulations must be complied with.

(b) Non-compliance and Notification:

If the owner does not comply with the property plan or maintain or correct nuisance items, the City may commence abatement and recover its costs for correction of those items. In the case of an absent owner and ongoing nuisance items, the City need not provide notice of each abatement act to the owner. A single notice by the City to the owner that it intends to provide ongoing abatement until the owner corrects the items will be sufficient notice.

Section 48-183. Penalties.

Any person violating any provisions of this Article or providing false information to the City shall be punished as provided in the penalties section of this Chapter.

Sections 48-184 through 48-190. Reserved.

CHAPTER 50. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. In General

State law reference--General powers as to streets, Minn. Stats. §§ 410.33, 412.221, subds. 6, 7, 18.

Section 50-1. Penalties for violation of article.

Any person violating any provision of this article shall be guilty of a petty misdemeanor.

Section 50-2. Obstructions prohibited; exceptions.

- (a) No person shall place any obstruction whatsoever upon any street or sidewalk, nor shall any person allow any such obstruction to be placed or to remain upon any street or sidewalk adjoining any property owned or occupied by him. Anything which is placed on the street or sidewalk, whether permanently or temporarily fixed thereto or merely resting thereon by its own weight, and any wire, sign, or any other thing which is suspended less than 15 feet above a street, or less than ten feet above a sidewalk, shall be deemed an obstruction.
- (b) The prohibition in subsection (a) of this section shall not apply to the following obstructions:
 - (1) Merchandise displayed for sale on the sidewalk in front of a place of business; provided, that it does not extend more than three feet toward the curbline, nor more than one-fourth of the total distance between lot line and curbline.
 - (2) Merchandise delivered to the occupant of abutting property, left on the sidewalk; provided, that at least three-fourths of the sidewalk is left unobstructed; and provided, that no such merchandise shall remain on the sidewalk between 6:00 p.m. and 7:00 a.m.; but no occupant of any property shall make any such use of the sidewalk during more than four hours of any single day; nor shall any merchandise be placed within five feet of any fire hydrant.
 - (3) Signs firmly secured to abutting structures and extending not more than one foot into the space over the sidewalk.
 - (4) Awnings firmly secured to abutting structures and at no point nearer than seven feet to the sidewalk.
 - (5) Parked vehicles, building materials, and excavation barriers so long as any necessary permits are in effect; provided, that the provisions of this Code on those respective subjects are fully complied with.

State law reference--Obstructing public highway or right-of-way, Minn. Stats. § 609.74.

Section 50-3. Impeding use of streets prohibited.

No person shall do anything which impedes or tends to hinder or endanger the use of the streets for travel.

State law reference--Obstructing public highway or right-of-way, Minn. Stats. § 609.74.

Section 50-4.

Permitting hazardous conditions on sidewalks prohibited.

No owner of any property having a public sidewalk adjacent thereto, shall permit any part of the sidewalk to be raised above the established level of the sidewalk more than one-half inch, in any manner which might catch the foot of a pedestrian; nor permit any holes or depressions to occur in the sidewalk in which a pedestrian might step or catch his foot in a manner liable to cause injury; nor permit any trap door or coal chute to be open on any sidewalk or near any sidewalk without having the trap door or coal chute properly guarded, in which a pedestrian might step or catch his foot or fall into in any manner liable to cause injury.

Section 50-5.

Removal of sand, paper and debris from sidewalks.

- (a) No owner or occupant of any property abutting on any public sidewalk shall allow earth or sand or other substances to be washed upon such sidewalk or to remain thereon. Every such owner and occupant shall take such steps as are necessary to prevent earth or sand or other substances from washing upon such sidewalk.
- (b) No owner or occupant of any property abutting on any public sidewalk shall allow waste paper, debris, or trash of any kind to remain on the public sidewalk and each owner and occupant shall remove waste paper, debris, or trash of any kind from the sidewalk in front of property abutting on the public sidewalk. Such waste paper, debris, or trash of any kind shall not be swept into the street or gutter adjacent to the sidewalk but shall be removed and disposed of.

Section 50-6.

Removing part of sidewalk.

No person shall loosen or remove any part or support from any sidewalk or crosswalk or any curbing or gutter; provided, that this section shall not apply to persons making repairs on any such sidewalk, gutter, curb, or crosswalk, or any person temporarily removing the sidewalk, gutter, curb, or crosswalk on account of building operations, if such person restores the structure to its original condition.

Section 50-7.

Hedge fences.

No person owning or controlling any hedge fence bordering on a street or sidewalk in the city shall permit the hedge fence to grow to a height of more than four feet, or permit any branches or any part thereof to hang over any sidewalk or sidewalk line.

Section 50-8.

Maintenance of Right-of-Way.

- (a) Property owners adjacent to public right of way shall be responsible for basic care of the boulevard areas abutting their property. This includes, but is not limited to, lawn mowing, leaf raking and litter and debris removal.
- (b) Installation by adjacent property owners of appurtenances with the public right of way are done solely at the property owner's risk. The City is not responsible for damage, repair or replacement of such appurtenances. The appurtenances include, but are not limited to, irrigation systems, decorative plantings, fences, decorative stones, and retaining walls.
- (c) The Public Services Department shall be responsible to remove, at its discretion, vegetation and other appurtenances from boulevard areas with interfere with winter snow storage, causes damage to City equipment or presents a risk to the travelling public.

Sections 50-9 thru 50-30.

Reserved.

CHAPTER 50. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE II. Snow and Ice Removal

Section 50-31. Snow and ice clearance required.

Each owner or occupant of real estate within the City along or by which there is built and maintained a public sidewalk within the Central Business District, shall clear or cause to be cleared all snow or ice from such sidewalk within 18 hours after the snow or ice has ceased to fall thereon. The term "Central Business District" as used in this Article includes that part of the City which is located east of the Rum River, west of Seventh Avenue, north of Monroe Street, and south of Van Buren Street. The City's policy to assist with snow removal does not exempt any property owner from meeting this requirement. Removal of snow and ice outside of the Central Business District is governed by Chapter 48, Article I, Section 48-3, Responsibility of Owners and Occupants, Subd (1), Removal of Snow and Ice.

Section 50-32. Removal to street.

No person shall place on City streets snow or ice which has fallen on private driveways; private parking lots; or sidewalks. However, snow and ice which is cleared from sidewalks within the Central Business District may be placed on the curb-line for collection by the City.

Section 50-33. Removal by City at property owners or occupants expense.

Any snow or ice which is not cleared from sidewalks in accordance with Section 50-31, or which is placed on City streets in violation of Section 50-32, may be cleared by the City at the expense of the owner or occupant of the adjacent or offending property. The officer or employee in charge of such clearance work shall keep a record of the costs of such work done adjacent to each parcel of land. The costs of such sidewalk clearance may be recovered by the City, at its discretion, either by (i) periodically billing the owner or occupant of the adjacent property for the costs of the clearance work, and taking such steps as are necessary to collect the bill, or by (ii) extending the costs of such work as a special assessment against the adjacent or offending property, which said assessment shall be certified to the County Auditor for collection as other special assessments.

State law reference--Special assessments for snow removal, Minn. Stats. § 429.101.

Sections 50-34 thru 50-60. Reserved.

CHAPTER 50. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE III. Right-of-Way Management and Use

***State law references**--Use and regulation of public right-of-way by telecommunications companies, Minn. Stats. § 237.162 et seq.; uniform statewide standards, Minn. Stats. § 237.163, subd. 8.

Section 50-61. Purpose.

The purpose of this article is to provide a way for the city (i) to manage its public rights-of-way and to recover its rights-of-way management costs and (ii) to regulate the use of public rights-of-way by providers of telecommunication services, public utility services, and the like, in a fair, efficient, competitively neutral and substantially uniform manner, consistent with and to the extent authorized by state law, specifically Minn. Stats. §§ 237.162, 237.163, 237.79, 237.81 and 238.086 and Minnesota Public Utility Commission Rules 7819.0050 through 7819.9950.

Section 50-62. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Applicant means any person requesting permission to excavate or obstruct a right-of-way.

City means the City of Anoka, Minnesota. For purposes of this article, the term "city" means its elected officials, officers, employees, agents or any commission, committee or subdivision acting pursuant to lawfully delegated authority.

City cost means the actual costs incurred by the city for managing rights-of-way including, but not limited to costs associated with registering of applicants, issuing, processing, and verifying right-of-way permit applications; revoking right-of-way permits; inspecting job sites; creating and updating mapping systems; determining the adequacy of right-of-way restoration; restoring work inadequately performed; maintaining, supporting, protecting, or moving user equipment during right-of-way work; budget analysis; record keeping; legal assistance; systems analysis; and performing all of the other tasks required by this article, including other costs the city may incur in managing the provisions of this article except as expressly prohibited by law.

City inspector means any person authorized by the city to carry out inspections related to the provisions of this article.

Commission means the state public utilities commission.

Degradation means the accelerated depreciation 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 did not occur, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

Emergency means a condition that (i) poses a clear and immediate danger to life or health, or of a significant loss of property; or (ii) requires immediate repair or replacement in order to restore service to a customer.

Equipment means any tangible thing located in any right-of-way; but shall not include boulevard plantings or gardens planted or maintained in the right-of-way between a person's property and the street curb.

Excavate means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Excavation permit means the permit which, pursuant to this article, 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 means money paid to the city by an applicant to cover the costs as provided in section 50-124.

High density corridor means a designated portion of the public right-of-way within which 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.

Local representative means the person or designee of such person authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this article.

Obstruction permit means the permit which, pursuant to this article, 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 a right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.

Obstruction permit fee means money paid to the city by a registrant to cover the costs as provided in section 50-124.

Performance and restoration bond means any of the following forms of security:

- (a) Individual project bond;
- (b) Cash deposit;
- (c) Security in the form listed or approved under Minn. Stats. § 15.73, subd. 3;
- (d) Letter of credit in a form acceptable to the city;
- (e) Self-insurance in a form acceptable to the city;
- (f) Blanket bond for projects within the city or other form of construction bond for time specified in a form acceptable to the city.

Permittee means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this article.

Person means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have equipment located in any right-of-way.

Public right-of-way means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane and 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.

Probation means the status of a person that has not complied with the conditions of this article.

Probation period means one year from the date that a person has been notified in writing that they have been put on probation.

Registrant means any person who (i) has or seeks to have its equipment located in any right-of-way, or (ii) in any way occupies or uses, or seeks to occupy or use, the right-of-way or any equipment located in the right-of-way and, accordingly, is required to register with the city.

Right-of-way permit means either the excavation permit or the obstruction permit, or both, depending on the context, required by this article.

Rules means Rules 7819.0050 through 7819.9950 adopted by the state public utilities commission.

Telecommunications right-of-way user means a person owning or controlling a facility in the right-of-way, or seeking to own or control the facility, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this article, a cable communications system defined and regulated under Minn. Stats. ch. 238, and telecommunications activities related to providing natural gas or electric energy services are not included in this definition for purposes of this article. This definition shall not be inconsistent with Minn. Stats. § 237.162, subd. 4.

Section 50-63.

Administration.

The city may designate a principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The city may delegate any or all of the duties under this article.

Section 50-64.

Severability.

If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final, nonappealable order that any permit, right or registration issued under this article or any portion of this article is illegal or unenforceable, then any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving 60 days written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. If a permit, right or registration shall be considered a revocable permit as provided in this article, the permittee must acknowledge the authority of the city council to issue such revocable permit and the power to revoke it. Nothing in this article precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth in this article.

Section 50-65.

Reservation of regulatory and police powers.

- (a) The city by the granting of a right-of-way permit, or by registering a person under this article does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the city under the Constitution and statutes of the state or the charter of the city to regulate the use of the right-of-way by the permittee; and the permittee by its acceptance of a right-of-way permit or of registration under those ordinances agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are now or as may be from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public deemed to agree to comply with all applicable general laws and ordinances enacted by the city pursuant to such powers.
- (b) Any conflict between the provisions of a registration or of a right-of-way permit and any other present or future exercise of the city's regulatory or police powers shall be resolved in favor of the latter.

Section 50-66.

Appeals.

- (a) A person that:
 - (1) Has been denied registration;
 - (2) Has been denied a right-of-way permit;
 - (3) Has had its right-of-way permit revoked; or
 - (4) Believes that the fees imposed on the user by the city do not conform to the requirements of law; may have the denial, revocation, or fee imposition reviewed, upon written request, by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting. A decision by the city council affirming the denial, revocation, or fee imposition must be in writing and supported by written findings establishing the reasonableness of the decision.
- (b) Upon affirmation by the city council of the denial, revocation, or fee imposition, the right-of-way user shall have the right to have the matter resolved by binding arbitration. Binding arbitration must be before an arbitrator agreed to by both the city and the person. If the parties cannot agree on an arbitrator, the matter must be resolved by a three-person arbitration panel made up of one arbitrator selected by the city, one arbitrator selected by the person, and one arbitrator selected by the other two arbitrators. The costs and fees of a single arbitrator shall be borne equally by the city and the person. In the event there is a third arbitrator, each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third arbitrator and of the arbitration.
- (c) Each party to the arbitration shall pay its own costs, disbursements, and attorney fees.

State law reference--Similar provisions, Minn. Stats. § 237.163, subd. 5.

Section 50-67.

Franchise; franchise supremacy.

The city may, in addition to the requirements of this article, require any person which has or seeks to have equipment located in any right-of-way to obtain a franchise to the full extent permitted by law, now or hereinafter enacted. The terms of any franchise which are in direct conflict with any provisions of this article, whether granted prior or subsequent to enactment to this article, excluding the city's police powers which shall always be reserved to the city, shall control and supersede the conflicting terms of this article provided, however, that requirements relating to insurance, bonds, penalties, security funds, letters of credit, indemnification or any other security in favor of the city may be cumulative in the sole determination of the city or unless otherwise negotiated by the city and the franchisee. All other terms of this article shall be fully applicable to all persons whether franchised or not.

State law reference--Restriction on franchises, Minn. Stats. § 237.163, subd. 7(a)(4).

Section 50-68.

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 with the city. Registrants must use commercially reasonable efforts to anticipate and plan for all upcoming projects and include all such projects in a construction or major maintenance plan. 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 specific 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) The tentative locations and beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

The term "project" in this section shall include both next-year projects and five-year projects. By January 1 of each year the city will have available for inspection in its offices a composite list of all projects of which it has been informed in the annual plans. All registrants are responsible for keeping themselves apprised of the current status of this list. 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 such list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant that was listed by the other registrant.

(b) *Additional next-year projects.* Notwithstanding the provisions of subsection (a) of this section, the city may, for good cause shown, allow a registrant to submit additional next-year projects. Good cause includes, but is not limited to, the criteria set forth in subsection 50-123(3) concerning the discretionary issuance of permits.

State law reference--Authority to so require, Minn. Stats. § 237.163, subd. 2(b)(3).

Section 50-69.

Right-of-way restoration.

- (a) The work to be done under the permit, and the restoration and the right-of-way as required in this article, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances constituting force majeure or when work was prohibited as unseasonal or unreasonable under subsection 50-126(b) all in the sole determination of the city. In addition to repairing its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of the work and use reasonable care to maintain the same condition for 36 months thereafter.
- (b) In its application for an excavation permit, the permittee may choose to have the city restore the right-of-way. In any event, the city may determine to perform the right-of-way restoration and shall require the permittee to pay a restoration fee to provide for reimbursement of all costs associated with such restoration. In the event the permittee elects not to perform restoration, the city may, in lieu of performing the restoration itself, impose a fee to fully compensate for the resultant degradation as well as for any and all additional city costs associated therewith. Such fee for degradation shall compensate the city for costs associated with a decrease in the useful life of the right-of-way caused by excavation and shall include a restoration fee component. It does not relieve permittee from any restoration obligation, including but not limited to replacing and compacting the subgrade base material and the excavation. The restoration fee will not include the cost to accomplish these responsibilities.
 - (1) *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If, during the 36 months following such restoration, the right-of-way settles due to permittee's excavation or restoration, the permittee shall pay to the city, within 30 days of billing, the cost of repairing such right-of-way.
 - (2) *Restoration by permittee.* If the permittee chooses at the time of application for an excavation permit to restore the right-of-way itself, such permittee shall post an additional performance and restoration bond in an amount determined by the city to be sufficient to cover the cost of restoring the right-of-way to its pre-excavation condition. If, 24 months after completion of the restoration of the right-of-way, the city determines that the right-of-way has been properly restored, the surety on the performance and restoration bond posted pursuant to this subsection shall be released.
- (c) The permittee shall perform the work according to the standards and with the materials specified by the city and in compliance with Minnesota Rule 7819.1100. The city shall have the authority to prescribe the manner and extent to the restoration, and may do so in written procedures of general application or on a case-by-case basis. The city, in exercising this authority, shall be guided but not limited by the following standards and considerations:
 - (1) The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way;
 - (2) The traffic volume carried by the right-of-way; the character of the neighborhood surrounding the right-of-way;

- (3) The pre-excavation condition of the right-of-way; the remaining life expectancy of the right-of-way affected by the excavation;
- (4) Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and
- (5) The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

Notwithstanding the provision of this subsection, the maximum limits of restoration methods and area requirements the city will impose are found in PUC Plates 1 to 13, shown in parts 7819.9900 to 7819.9950.

- (d) By choosing to restore the right-of-way itself, the permittee guarantees its work and shall maintain it for 24 months following its completion. During this 24-month period it shall, upon notification from the city, correct all restoration work to the extent necessary, using the method required by the city. Such 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 unseasonal or unreasonable under subsection 50-126(b), all in the sole determination of the city.
- (e) 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 repairs required by the city, the city at its option may perform or cause to be performed 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 the permittee fails to pay as required, the city may exercise its rights under the performance and restoration bond.

State law reference--Right-of-way restoration, Minn. Stats. § 237.163, subd. 3.

Section 50-70.

Installation requirements.

In accordance with Minn. Stats. §§ 237.162, subd. 8(3), 237.163, subd. 8; and the commission rules, all work performed in the right-of-way shall be done in conformance with the standard specifications for street openings as promulgated by the city and at a location as may be required by subsection 50-72(b). The city may enforce local standards pursuant to its inherent and historical police power authority, so long as such standards do not impose greater requirements than those found in the commission rules.

Section 50-71.

Inspection.

- (a) When the work under any permit under this article is completed, the permittee shall notify the city.
- (b) Permittee shall make the work site available to the city inspector and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of work.

- (c) At the time of inspection the city inspector may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well being of the public. The city inspector may issue an order to the registrant for any work which does not conform to the applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the registrant 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 section 50-129.

Section 50-72.

Location of equipment.

- (a) *Undergrounding.* Unless otherwise permitted by an existing franchise or Minn. Stats. § 216B.34, or unless existing aboveground equipment is repaired or replaced, or unless infeasible such as in the provision of electric service at certain voltages, new construction, the installation of new equipment, and the replacement of old equipment shall be done underground or contained within buildings or other structures in conformity with applicable codes unless otherwise agreed to by the city in writing, and such agreement is reflected in applicable permits.
- (b) *High density corridor.* The city may assign specific high density corridors within the right-of-way or any particular segment therefore as may be necessary for each type of equipment that is or, pursuant to current technology, the city expects will someday be located within the right-of-way, excavation, obstruction, or other permits issued by the city involving the installation or replacement of equipment may designate the proper corridor for the equipment at issue and such equipment must be located accordingly. In the event the city desires to establish a high-density corridor, it shall include the elements required in commission rule 7819.0200. Any registrant having equipment located prior to enactment of this article 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 its equipment is located, move that equipment to its assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of 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 the ordinance from which this article is derived, any equipment found in a right-of-way that has not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the equipment and restoring the right-of-way to a useable condition.
- (d) *Limitation of space.* To protect health, safety and welfare, the city shall have the power to prohibit or limit the placement of new or additional equipment within the right-of-way if there is insufficient space to accommodate all of the requests of registrants or persons to occupy and use 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 service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

Section 50-73.

Relocation of equipment.

The person must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its equipment and facilities in the right-of-way whenever the city requests such removal and relocation, and shall restore the right-of-way to the same condition it was in prior to such removal or relocation. The city may take such requests in order to prevent interference by the company's equipment or facilities with (i) a present or future city use of the right-of-way for a public project; (ii) the public health or safety; (iii) the safety and convenience of travel over the right-of-way.

Section 50-74.

Pre-excavation equipment location.

In addition to complying with the requirements of Minn. Stats. ch. 216D (one call excavation notice system) before the start date of any right-of-way excavation, each registrant who has equipment located in the area to be excavated shall mark the horizontal and approximate vertical placement of all such equipment. Any registrant whose equipment is less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor in an effort to establish the exact location of its equipment and the best procedures for excavation.

Section 50-75.

Damage to other equipment.

- (a) When the city does work in the right-of-way and finds it necessary to maintain, support or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing.
- (b) Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. 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.

Section 50-76.

Right-of-way vacation.

- (a) If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.
- (b) If the vacation requires the relocation of registrant or permittee equipment and:
 - (i) if the vacation proceedings are initiated by the registrant or permittee, the registrant or permittee must pay the relocation costs; or
 - (ii) if the vacation proceedings are initiated by the city, the registrant or permittee must pay the relocation costs unless otherwise agreed to by the city and the registrant or permittee; or
 - (iii) if the vacation proceedings are initiated by a person or persons other than the registrant or permittee, such other person or persons must pay the relocation costs.

Section 50-77.

Indemnification and liability.

- (a) By reason of the acceptance of a registration or the grant of a right-of-way permit, the city does not assume any liability: (i) for injuries to persons, damage to property, or loss of service claims by parties other than the registrant or the city; or (ii) for claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of equipment by registrants or activities of registrants.
- (b) By registering with the city, or by accepting a permit under this article, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rules 7819.1250.

Section 50-78.

Future uses.

In placing any equipment, or allowing it to be placed, in the right-of-way the city is not liable for any damages caused thereby to any registrant's equipment which is already in place. No registrant is entitled to rely on the provisions of this article, and no special duty is created as to any registrant. This article is enacted to protect the general health, welfare and safety of the public at large.

Section 50-79.

Abandoned and unusable equipment.

- (a) A registrant who has determined to discontinue its operations with respect to any equipment in any right-of-way, or segment or portion thereof, in the city must either:
 - (1) Provide information satisfactory to the city that the registrant's obligations for its equipment in the right-of-way under this article have been lawfully assumed by another registrant; or
 - (2) Submit to the city a proposal and instruments for transferring ownership of its equipment to the city. If a registrant proceeds under this clause, the city may, at its option:
 - a. Purchase the equipment;
 - b. Require the registrant, at its own expense, to remove it; or
 - c. Require the registrant to post an additional bond or an increased bond amount sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the equipment.
- (b) Equipment of a registrant which fails to comply with subsection (a) of this section and which, for two years, remains unused shall be deemed to be abandoned. Abandoned equipment is deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, (i) abating the nuisance, (ii) taking possession of the equipment and restoring it to a useable condition, (iii) requiring removal of the equipment by the registrant or by the registrant's surety; or (iv) exercising its rights pursuant to the performance and restoration bond.
- (c) Any registrant who has unusable equipment in any right-of-way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is waived by the city.

Sections 50-80 thru 50-95. **Reserved.**

Section 50-96. **Registration, bonding and right-of-way occupancy.**

- (a) Each person which occupies, uses, or seeks to occupy or use, the right-of-way or any equipment located in the right-of-way, including by lease, sublease or assignment, or who has, or seeks to have, equipment located in any right-of-way must register with the city. Registration will consist of providing application information to and as required by the city, paying a registration fee, and posting a performance and restoration bond. The performance and restoration bonds required by this article shall be in an amount determined in the city's sole discretion, sufficient to serve as security for the full and complete performance of the obligations under this article, including any costs, expenses, damages, or loss the city pays or incurs because of any failure to comply with this article or any other applicable laws, regulations or standards. During periods of construction, repair or restoration of rights-of-way or equipment in rights-of-way, the performance and restoration bond shall be in an amount sufficient to cover 100 percent of the estimated cost of such work, as documented by the person proposing to perform such work, or in such lesser amount as may be determined by the city, taking into account the amount of equipment in the right-of-way, the location and method of installation of the equipment, the conflict or interference of such equipment with the equipment of other persons, and the purposes and policies of this article. Sixty days after completion of the work, the performance and restoration bond may be reduced in the sole determination of the city.
- (b) No person shall construct, install, repair, remove, relocate, or perform any other work on, or use any equipment or any part thereof located in any right-of-way without first being registered with the city.
- (c) Nothing in this section shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens or in the area of right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits to satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this article. However, excavations deeper than 12 inches are subject to the permit requirements of section 50-116.

State law reference--Authority to require telecommunication right-of-way users to register, Minn. Stats. § 237.163, subd. 2(b)(2).

Section 50-97. **Registration information.**

- (a) The information provided to the city at the time of registration shall include, but not be limited to:
 - (1) The registrant's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.
 - (2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

- (3) A certificate of insurance or self-insurance:
 - a. Shall be on a form approved by the city;
 - b. Shall verify that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state; or is covered by self-insurance which the city determines to provide the city with protections equivalent to that of a state licensed insurance company, legally independent from registrant;
 - c. Shall verify that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground equipment and collapse of property;
 - d. Shall name the city as an additional insured as to whom the coverages required in this subsection are in force and applicable and for whom defense will be provided as to all such coverages;
 - e. Shall require that the city be notified 30 days in advance of cancellation of the policy; and
 - f. Shall indicate comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage in amounts established by the city of the office of risk and employee benefit management in amounts sufficient to protect the city and carry out the purposes and policies of this article.
 - (4) If the registrant is a corporation, a copy of the certificate required to be filed under Minn. Stats. § 333.01 as recorded and certified to by the secretary of state.
 - (5) A copy of the registrant's certificate of authority from the state public utilities commission, where the registrant is lawfully required to have such certificate from such commission.
 - (6) Such other information as the city may require.
- (b) The registrant shall keep all of the information listed in subsection (a) of this section current at all times by providing to the city information of changes within 15 days following the date on which the registrant has knowledge of any change.

State law reference--Minimum required information, Minn. Stats. § 237.163, subd. 2(b)(2).

Section 50-98.

Right to occupy rights-of-way; payment of fees.

- (a) Any person required to register under section 50-96, which occupies, uses, or places its equipment in the right-of-way, is hereby granted a right to do so if and only so long as it (i) timely pays all fees as provided in this article and (ii) complies with all other requirements of law.
- (b) The grant of right in section 50-98 is expressly conditioned on, and is subject to, the police powers of the city, continuing compliance with all provisions of law now or hereinafter enacted, including this article as it may be from time to time amended and, further, is specifically subject to the obligation to obtain any and all additional required authorizations, whether from the city or other body or authority.

State law reference--Registration fee, Minn. Stats. § 237.163, subd. 6.

Sections 50-99 thru 50-115.

Reserved.

Section 50-116.

Permit requirement.

- (a) *Generally.* Except as otherwise provided for 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. This section does not apply to the construction, alteration, improvement or expansion of driveways.
- (b) *Excavation permit.* An excavation permit is required to allow the holder to excavate that part of the right-of-way described in such permit and/or to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein, to the extent and for the duration specified therein.
- (c) *Obstruction permit.* An obstruction permit is required to allow the holder to hinder free and open passage over the specified portion of right-of-way by placing equipment, vehicles, or other obstructions described therein on the right-of-way for the duration specified therein.
- (d) *Specified dates for excavation or construction.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless a new permit or permit extension is granted.

Section 50-117.

Applications.

Application for a permit under this article 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 article.
- (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 existing and proposed equipment.
- (c) Payment of all money due to the city for:
 - (1) Permit fees and costs due;
 - (2) Prior obstructions or excavations;

- (3) Any loss, damage, or expense suffered by the city as a result of applicant's prior excavations or obstructions of the rights-of-way of any emergency actions taken by the city; and
- (4) Franchise fees, if applicable.

Section 50-118.

Joint applications.

- (a) Registrants may jointly make application for permits to excavate or obstruct the right-of-way at the same place and time.
- (b) Registrants who join in and during 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 obstruction and degradation portions of the permit fee.
- (c) Registrants who apply for permits for the same obstruction or excavation, which is not performed by the city, may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate such portion on their applications.

Section 50-119.

Submission of mapping data.

- (a) Except as provided in subsection (b) of this section, each registrant shall provide as a part of its permit applicant the following information:
 - (1) Location and approximate depth of applicant's mains, cables, conduits, switches, and related equipment and facilities with the location based on:
 - a. Offsets from the property lines, distances from the centerline to the public right-of-way, and curblines as determined by the city;
 - b. Coordinates derived from the coordinates system being used by the city; or
 - c. Any other system agreed upon by the applicant and the city;
 - (2) Type and size of the utility facility;
 - (3) Description showing aboveground appurtenances;
 - (4) A legend explaining symbols, characters, abbreviations, scale and other data shown on the map; and
 - (5) Any facilities to be abandoned, if applicable, in conformance with Minn. Stats. § 216D.04, subd. 3.

The applicant shall provide the city information mapping data shall be provided with specificity and in the format requested by the city for inclusion in the mapping system used by the city. If such format is different from what is currently utilized and maintained by the registration, the registrant may provide such information in the format that they currently are utilizing. The permit application fee may include the cost to convert the data furnished by the applicant to a format currently in use by the city.

- (b) Information regarding equipment of telecommunications right-of-way users constructed or located prior to May 10, 1997, need only be supplied in the form maintained, however, all telecommunications right-of-way users must submit some type of documentary evidence regarding the location of equipment within the rights-of-way of the city.
- (c) At the request of any registrant, any information requested by the city, which qualifies as a "trade-secret" under Minn. Stats. § 13.37(b) shall be treated as trade secret information as detailed therein. With respect to the provision of mapping data, the city may consider unique circumstances from time to time required to obtain mapping data.

Section 50-120.

Supplementary applications.

- (a) A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may perform any work outside the area specified in the permit, except as provided in this article. 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 necessitated thereby, and (ii) be granted a new permit or permit extension.
- (b) 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 in this article, continue working after the end date. If a permittee does not finish the work by the permit end date, it must make application 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 done before the permit end date.

Section 50-121.

Additional performance and restoration bonds.

When an excavation permit is requested for purposes of installing additional equipment, and a performance and restoration bond which is in existence is insufficient with respect to the additional equipment in the sole determination of the city, the permit applicant may be required by the city to post an additional performance and restoration bond in accordance with subsection 50-96(a).

Section 50-122.

Issuance of permit; conditions.

- (a) If the city determines that the applicant has satisfied the requirements of this article, the city may issue a permit.
- (b) The city may impose any reasonable conditions upon the issuance of a permit and the performance of the applicant there under in order to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, to minimize the disruption and inconvenience to the traveling public, and to otherwise efficiently manage use of the right-of-way.

Section 50-123.

Denial of permit.

The city may, in accordance with Minn. Stats. § 237.163, subd. 4, deny any application for a permit as provided in this section.

- (a) *Mandatory denial.* Except in the case of an emergency, no right-of-way permit will be granted:
- (1) To any person required by section 50-96 to be registered who has not done so;
 - (2) To any person required by section 50-68 to file an annual report but has failed to do so;
 - (3) For any next-year project not listed in the construction and major maintenance plan required under section 50-68 unless the person used commercially reasonable efforts to anticipate and plan for the project;
 - (4) For any project which requires the excavation of any portion of a right-of-way which was constructed or reconstructed within the preceding five years;
 - (5) To any person who has failed within the past three years to comply, or is presently not in full compliance, with the requirements of this article;
 - (6) To any person as to whom there exists grounds for the revocation of a permit under section 50-129; and
 - (7) If, in the sole discretion of the city, the issuance of a permit for the particular date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event. The city, in exercising this discretion, shall be guided by the safety and convenience of ordinary travel of the public over the right-of-way, and by considerations relating to the public health, safety and welfare.
- (b) *Permissive denial.* The city may deny a permit in order to protect the public health, safety and welfare, to protect interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The city may consider one or more of the following factors:
- (1) The extent to which right-of-way space where the permit is sought is available;
 - (2) The competing demands for the particular space in the right-of-way;
 - (3) The availability of other locations in the right-of-way or in other rights-of-way for the equipment of the permit applicant;
 - (4) The applicability of ordinance or other regulations of the right-of-way that affect location of equipment in the right-of-way;
 - (5) The degree of compliance of the applicant with the terms and conditions of its franchise; if any, this article, and other applicable ordinances and regulations;

- (6) The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;
 - (7) The condition and age of the right-of-way, and whether and when it is scheduled for total or partial reconstruction; and
 - (8) The balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the expansion into additional parts of the right-of-way.
- (c) *Discretionary issuance.* Notwithstanding the provisions of subsections (a)(3) and (4) of this section, the city may issue a permit in any case where the permit is necessary (i) to prevent substantial economic hardship to a customer of the permit applicant, or (ii) to allow such customer to materially improve its utility service, or (iii) to allow a new economic development project; and where the permit applicant did not have knowledge of the hardship, the plans for improvement of service, or the development project when the applicant was required to submit its list of next-year projects.
- (d) *Permits for additional next-year projects.* Notwithstanding the provisions of subsection (a)(3) of this section, the city may issue a permit to a registrant who was allowed under subsection 50-68(b) to submit an additional next-year project, or in the event the registrant demonstrates that it used commercially reasonable efforts to anticipate and plan for the project, such permit to be subject to all other conditions and requirements of law, including such conditions as may be imposed under this article.

State law reference--Permit denial, Minn. Stats. § 237.163, subd. 4.

Section 50-124.

Permit fees.

- (a) *Excavation permit fee.* The excavation permit fee shall be established by the city in an amount sufficient to recover the following costs:
 - (1) The city cost;
 - (2) The degradation of the right-of-way that will result from the excavation;
 - (3) Restoration, if done or caused to be done by the city.
- (b) *Obstruction permit fee.* The obstruction permit fee shall be established by the city and shall be in an amount sufficient to recover the city cost.
- (c) *Disruption fees.* The city may establish and impose a disruption fee as a penalty for unreasonable delays in excavations, obstructions, or restoration. Disruption fees will not be imposed if the delay in completion is due to circumstances beyond the control of the applicant, including without limitation inclement weather, acts of God or civil strike.
- (d) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of all fees required prior to the issuance of such a permit unless the applicant shall agree (in a manner, amount, and substance acceptable to the city) to pay such fees within 30 days of billing therefore. All permit fees shall be doubled during a probationary period. Permit fees that were paid for a permit which was revoked for a breach are not refundable. Any refunded permit fees shall be less all city cost up to and including the date of refund.

- (e) *Use of permit fees.* All obstruction and excavation permit fees shall be used solely for city management, construction, maintenance and restoration costs of the right-of-way.

State law reference--Permit fees, Minn. Stats. § 237.163, subd. 6.

Section 50-125. Display of permits.

Permits issued under this article shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by the city inspector and authorized city personnel.

Section 50-126. Other obligations.

- (a) Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, franchises or other authorizations and to pay all fees required by the city, any other city, county, state or federal rules, laws or regulations. A permittee shall comply with all requirements of local, state and federal laws, including Minn. Stats. ch. 216D (One Call Excavation Notice System). 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 performs the work.
- (b) Except in the case of an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work.
- (c) 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 may not be parked with or adjacent to a permit area. The loading or unloading of trucks adjacent to a permit area is prohibited unless specifically authorized by the permit.

Section 50-127. Work done without a permit.

- (a) *Emergency situations.* Each registrant shall immediately notify the city or the city's designee of any event regarding its equipment which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary in order to respond to the emergency. Within two 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 article for the actions it took in response to the emergency. In the event that the city becomes aware of an emergency regarding a registrant's equipment, the city may attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary in order to respond to the emergency, the cost of which shall be borne by the registrant whose equipment occasioned the emergency.
- (b) *Non-emergency situations.* Except in the case of an emergency, any person who, without first having obtained the necessary permit, obstructs or evicts a right-of-way must subsequently obtain a permit, pay double the normal fee for such permit, pay double all the other fees required by city ordinance, including, but not limited to, criminal fines and penalties, 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 article.

Section 50-128.

Supplementary notification.

If the obstruction or evacuation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the city of the accurate information as soon as this information is known.

Section 50-129.

Revocation of permits.

- (a) Registrants hold permits issued pursuant to this Code as a privilege and not as a right. The city reserves its right, as provided in this article and in accordance with Minn. Stats. § 237.163, subd. 4, to revoke any right-of-way permit, without fee refund, in the event of a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any 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 maintain the required bonds and/or insurance;
 - (5) The failure to complete the work in a timely manner; or
 - (6) The failure to correct a condition indicated on an order issued pursuant to subsection 50-71(c).
- (b) 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. Further, a substantial breach, as stated in this subsection, will allow the city, at the city's discretion, to place additional or revised conditions on the permit.
- (c) Within 24 hours of receiving notification of the breach, the permittee shall contact the city with a plan, acceptable to the city inspector, for its correction. The permittee's failure to so contact the city inspector, the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan shall be cause for immediate revocation of the permit. Further, the permittee's failure to so contact the city inspector, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan shall automatically place the permittee on probation for one full year.
- (d) From time to time, the city may establish a list of conditions of the permit which, if breach, will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way outside of the permit.

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- (e) If a permittee, while on probation, commits a breach as outlined above, the permittee's permit will automatically be revoked and the permittee will not be allowed further permits for one full year, except for emergency repairs.
- (f) 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.

State law reference--Permit revocation, Minn. Stats. § 237.163, subd. 4.

Sections 50-130 thru 50-150. Reserved.

CHAPTER 50. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE IV. Parks and Cemeteries

***State law references--**General authority relative to parks, Minn. Stats. §§ 410.33, 412.191; general authority relative to cemeteries, Minn. Stats. §§ 410.33, 412.221, subd. 9.

Sections 50-151 thru 50-165. Reserved.

Section 50-166. Definitions.

For the purpose of this division the term "park" shall mean a park, playground, playfield, swimming pool, lake, pond, stream, trail, nature area, open space area, recreational center, golf course, or cemetery. It shall also mean any other property owned, leased, used, or controlled, wholly or in part, by the city for park and recreation use.

Section 50-167. Scope.

The provisions of this division apply to all parks within the city.

Section 50-168. Park facilities use policies, procedures and fees.

Policies, procedures, and fees for use of park facilities in the city may be set by the city council, either upon its own motion or following recommendation by the park and recreation advisory board.

Section 50-169. Penalties.

Violation of section 50-172, 50-174, 50-175, 50-177, 50-178, 50-180, 50-181, 50-182, 50-186 or 50-188 shall be a petty misdemeanor, and violation of section 50-173, 50-176, 50-179, 50-183, 50-184, 50-185 or 50-187 shall be a misdemeanor under this Code.

Section 50-170. Emergency orders.

When necessary to protect the public health, safety or welfare, the chief of police is authorized to issue reasonable temporary orders concerning the use of parks on matters not specifically addressed in this article or the policies, procedures, rules, or regulations adopted under this article by resolution.

Section 50-171. Additional regulations.

In order to protect public health, safety and welfare, and to better control and manage all parks of the city, the superintendent of parks is authorized to propose additional written rules and regulations which shall define in detail the procedures to be followed in the use of the parks. Such regulations and any amendments thereto shall be effective upon council approval by resolution.

Section 50-172. Park hours.

Except for Greenhaven, unless otherwise posted, all public parks will close by 11:00 p.m. each day and shall remain closed to the public until 6:00 a.m. on the following day. By council resolution, and upon posting, other closed hours may be designated for any park. No person shall be in, remain in, or enter any closed public park.

Section 50-173.

Obeying authorized persons.

Any person using a park and recreation facility shall obey all orders or directions of authorized city personnel given in conformance with this article. The superintendent of parks and any park attendant shall have the authority to eject from the park and its facilities any person acting in violation of this article.

Section 50-174.

Traffic.

- (a) *Parking.* No person shall drive into, remain in, or leave a parked vehicle in a public parking area within or immediately adjacent to a public park during the hours when such park is closed in accordance with section 50-172 except as authorized by permit or the police department.
- (b) *Parking in proper areas.* No person shall operate or park any motorized vehicle in any public park or recreation area except on roads or in designated parking areas unless authorized by a special permit.
- (c) *Speed limit.* No person shall operate a motorized vehicle within a park at a speed in excess of 15 miles per hour.

Section 50-175.

Fires.

No fires shall be lighted or made in any park except in designated areas. Fires must be attended at all times and extinguished after use.

Section 50-176.

Fireworks and firearms.

- (a) No person shall bring into or discharge any fireworks in any park without the written permission of the city and without a permit, from the fire chief.
- (b) No person shall bring into or discharge a firearm in any park unless as approved under a special permit to allow hunting.

Section 50-177.

Golf activities prohibited in public parks.

No person shall hit, drive, stroke or otherwise propel a golf ball upon, in, over or across any park other than a designated golf course or driving range. The play or practice or use of golf equipment of any kind is prohibited in public parks within the city, except under the direction and approval of the superintendent of parks or on a golf area provided for that purpose or as part of a city park and recreation program.

Section 50-178.

Gambling; excessive use of alcoholic beverages; abusive, boisterous, profane or indecent language, conduct or attire.

Gambling, excessive use of alcoholic beverages, and abusive, boisterous, profane or indecent language, conduct or attire is prohibited in public parks. No alcoholic beverages shall be possessed or consumed in parks where notice of such restriction is posted.

Section 50-179.

Nuisance and disorderly conduct.

No person shall commit any nuisance as defined by Minn. Stats. § 609.74 or any offense against decency or any act defined as disorderly conduct as defined by Minn. Stats. § 609.72.

Section 50-180.

Sales.

Advertising, selling, or solicitation is prohibited in parks and recreation areas except as specifically permitted by the city.

Section 50-181.

Animals.

- (a) It shall be unlawful for a person to cause or permit a dog, cat, or other pet to be in a park unless restrained at all times on an adequate leash not greater than eight feet in length. Feces of any domestic animal shall be properly disposed of by the owner or guardian of the pet.
- (b) No person shall disturb, molest, injure or interfere with any birds, animals, animal habitat, or nesting area in a park.

Section 50-182.

Litter.

No person shall scatter about or litter a park with any form of waste material. Dumping or depositing bottles, broken glass, ashes, paper, boxes, cans, or refuse of any kind is prohibited except in the containers provided in the parks.

Section 50-183.

Shooting mechanisms.

No person shall possess or use an air rifle, BB gun, bow and arrow, or sling shot in a park or on public property unless as approved under a special permit to allow hunting.

Section 50-184.

Pollution of water.

No person shall discharge in waters of any pond, stream or any body of water, any substance, liquid or solid, or any material or thing which will result in pollution of the water.

Section 50-185.

Protecting public property.

No person shall remove, break, destruct, injure, mutilate, carry away, or deface in any way any tree, plant, flower, shrub, rock, soil, sand, fence, bench, table, building, shelter, or any other city property or thing pertaining to or located in a park.

Section 50-186.

Climbing.

Climbing of trees, flagpoles, buildings, shelters, light standards, fences and backstops, sitting or standing upon monuments, vases, fountains, railings, or fences in any park and recreation area is prohibited.

Section 50-187.

Safe use of facilities.

No person shall use a park facility in a manner which endangers any person or property.

Section 50-188.

Exclusive use.

No person or organization shall use a park or a park area for group celebrations, meetings, entertainment, etc., which are considered "exclusive use," except through use of a permit issued by the Director of Public Services.

Sections 50-189 thru 50-210. **Reserved.**

CHAPTER 50. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE V. Rum River Speed Restrictions

Section 50-211.

Purpose.

Pursuant to Minn. Stats. §§ 378.32 and 459.20 and Minn. Rules Parts 6110.3000 through 6110.3800, it is the purpose of the city to regulate the operation and speed of watercraft on the Rum River from its confluence with the Mississippi River upstream to the southern border of the City of Ramsey. The limitations contained in this ordinance are designed to prevent and limit the erosion which is occurring to the banks and shoreline of the Rum River, within the city. The heavy wake from water-skiing, jet skiing and speed boating creates wave action which is eroding the shoreline, banks, and bluffs along the river, is adverse to the public's interest in maintaining and preserving the shoreline, and swimmers, people canoeing and other people using the river more passively are placed in jeopardy by water-skiing, jet skiing and speed boating. This division is designed to protect the health, safety and general welfare of the public.

Section 50-212.

Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Operate means to navigate or otherwise use a watercraft.

Person means an individual, partnership, corporation or any body of persons, whether incorporated or formed into an association or not.

Rum River means the body of water located in the City of Anoka from its confluence with the Mississippi River upstream to the Ramsey city limits.

Slow-no wake means the operation of a watercraft at the slowest possible speed necessary to maintain steerage and in no case greater than five miles per hour.

Watercraft means the same as is defined in Minn. Stats. § 361.02, subd. 7.

Section 50-213.

Regulations.

No person shall operate a watercraft at greater than slow-no wake speed on the Rum River from its confluence with the Mississippi River upstream to the Ramsey city limits. Any person who shall violate this provision shall be guilty of a petty misdemeanor.

Section 50-214.

Exemptions.

- (a) Authorized resource management, emergency and enforcement personnel, when acting in the performance of their duties, shall be exempt from the provisions of this ordinance.
- (b) Temporary exemptions from this ordinance may be granted by the chief of police.

Section 50-215.

Marking.

The city police department shall be responsible for informing the public, posting notification at all public accesses and marking or buoying areas affected by this ordinance as necessary to give reasonable notice of the speed restriction of this section.

Section 50-216. Enforcement.

The city police department, the Anoka County Sheriff's Department and other licensed peace officers, including Conservation Offices of the Department of Natural Resources of the State of Minnesota are authorized to enforce this division.

Sections 50-217 thru 50-229. Reserved.

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ARTICLE VI. Mississippi River Speed Restrictions

Section 50-230. **Surface zoning of the Mississippi River by restricting speeds during certain seasonal fluctuations of the water level.**

A slow-no-wake speed shall be in effect 24 hours per day on the Mississippi River between River Mile 879 upstream (upstream of the upstream tip of Goodin Island, located between Dayton and Ramsey) and River Mile 866.2 downstream (the Coon Rapids Dam) when the river level on the Mississippi River exceeds 837 feet above sea level, as measured at Gauge C, Peninsula Point Park, Anoka, Minnesota and located at the confluence of the Rum and Mississippi Rivers. A map depicting the physical boundaries of this section is attached as Attachment A. When high water levels have subsided and have remained below an elevation of 837 feet for three consecutive days, said restrictions shall be promptly removed.

Section 50-231. **Definitions.**

For the purpose of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Slow-no-wake means operation of a watercraft at the slowest possible speed necessary to maintain steerage, but in no case greater than five miles per hour.

Operate means to navigate or otherwise use a watercraft.

Watercraft means the same as is defined in Minn. Stats. ch. 361, subd. 7.

Person means an individual, partnership, corporation or any body of persons, whether incorporated or formed into an association.

Section 50-232. **Violation.**

No person shall operate a watercraft at greater than slow-no-wake speed on the Mississippi River during a period when a slow-no-wake speed is in effect.

Section 50-233. **Enforcement.**

The City Police Department, the Anoka County Sheriff's Department and other licensed Peace Officers, including Conservation Officers of the Department of Natural Resources of the State of Minnesota, are authorized to enforce this article.

Section 50-234. **Exemptions.**

All authorized emergency, resource management and law enforcement personnel shall be exempt from the restrictions of this division while they are performing their official duties.

Section 50-235. **Notification.**

The restrictions on operation of watercraft as set forth in this section shall become effective upon publication in the official newspaper of the city or on a specified date, whichever is later. All public watercraft access areas shall be posted prior to, and during the time, the restrictions are in place. In addition, the restrictions shall be posted at city hall.

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Section 50-236. **Penalties.**

Any person who violates any of the provisions of this division may be charged with a petty misdemeanor.

Sections 50-237thru 50-249. **Reserved.**

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ARTICLE VII. Parades

***State law reference--**Authority to regulate processions or assemblages on highways, Minn. Stats. § 169.04(a)(3).

Section 50-250. "Parade" defined; exceptions.

- (a) The term "parade" when used in this article means any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon the portion of a street reserved for vehicular travel in the city.
- (b) This article shall not apply to the following:
 - (1) Funeral processions;
 - (2) A governmental agency acting within the scope of its functions.

Section 50-251. Interference prohibited.

No person shall unreasonably hamper, obstruct or impede or interfere with any parade, parade assembly or any person, animal or vehicle participating in the parade.

Section 50-252. Driving between units of parade.

No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such parade is in motion.

Section 50-253. Parking on parade route.

The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the route of the parade in areas contiguous thereto. The chief of police shall post signs to such effect, and it shall be unlawful for any person to park or leave any vehicle unattended in violation of such signs.

Section 50-254. Reserving Public Space.

Prior to 4:00 a.m. on the day of a morning or "daytime" parade and 4:00 p.m. on the day of a "nighttime" parade, no person shall claim or attempt to claim, reserve, occupy or otherwise control public space along the adjoining parade route, either in person or by the placement of any objects such as, but not limited to, ropes, tapes, chairs, blankets, barricade or barriers of any kind. After the foregoing 4:00 a.m. and 4:00 p.m. time restrictions, ropes, tapes, chairs and blankets may be used to reserve public space along the adjoining parade route, provided such objects are removed within three (3) hours following the conclusion of the parade.

Section 50-255. Removal of Objects From Public Space.

Any objects on public property in violation of Section 50-254 may be removed by the City or its designee and stored at a location designated by the City until such time as the object is claimed by its owner or deemed to be abandoned by the City pursuant to Section 50-256. The City shall not be responsible for any objects removed and/or stored by the City pursuant to this Section.

Section 50-256.

Reclamation of Removed Objects.

Individuals who have had objects removed from public property pursuant to Section 50-255 must claim their objects no later than three (3) calendar days following the conclusion of the parade. All items not claimed by said time may be deemed abandoned and disposed of at the discretion of the City.

Section 50-257.

City Reservation of Public Space.

The City may reserve public space along the parade route for observation of the parade and erect and control seating on such reserved public space.

Sections 50-258 thru 50-270. **Reserved.**

CHAPTER 50. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE VIII. Unlawful Camping and Storage of Personal Property on Public Property.

Section 50-271. Purpose.

The public streets and public property, including, but not limited to open space, sidewalks, parks, buildings, and easements within the City, should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use these areas as they were intended. The purpose of this Article is to conserve and maintain public streets and public areas within the City in a clean and accessible condition.

Section 50-272. Definitions. For purposes of this Article, the following definitions shall be used.

Camp means the erecting of or occupying camp facilities for the apparent purpose of overnight occupancy; to use camp paraphernalia.

Camp facilities include, but are not limited to, tarpaulins, tents, cots, beds, blankets, bedding, bedrolls, mattresses, pads, sleeping bags, hammocks, lanterns, stoves, or non-city designated cooking facilities and similar equipment.

Camp paraphernalia includes, but is not limited to, tarpaulins, tents, cots, beds, blankets, bedding, bedrolls, mattresses, pads, sleeping bags, hammocks, lanterns, stoves or non-designated cooking facilities and similar equipment.

Park shall have the meaning set forth in Section 50-166 of the City Code.

Public property means all publicly owned real property, including, but not limited to, any street, alley, sidewalk, pedestrian or transit mall, bike path, greenway, creek, waterway, lots, parcels, any other forms of improved or unimproved land or real property, or any other area encompassed within the public right-of-way; any park, parkway or other recreation facility; or any other grounds, buildings or other facilities owned or leased by the City or by any other public entity, regardless of whether such public property is vacant or occupied and actively used for any public purpose.

Section 50-273. Unlawful camping.

Unless specifically authorized by the City or designated as an authorized camping location, it shall be unlawful for any person to camp, occupy camp facilities or use camp paraphernalia upon Public Property.

Section 50-274. Storage of personal property in public places.

Unless specifically authorized by the City, it shall be unlawful for any person to accumulate excessive personal property or leave personal property unattended for thirty (30) minutes or more upon Public Property.

Personal property left on Public Property that is associated with attendance at a City authorized parade shall be excluded from the provisions of this Article and instead governed under Chapter 50, Article VII.

Section 50-275. Enforcement procedures.

No law enforcement officer shall issue a citation, make an arrest or otherwise enforce this Article against any person unless:

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- (a) The officer first orally requests or orders the person to refrain from the alleged violation of this Article, and informs the person that if they fail to comply, the person may be cited or arrested for a violation of this Article; and
- (b) If, following the oral request or order required under paragraph (a) the person refuses to cooperate, the officer may proceed to cite or arrest the person for a violation of this Article.

Section 50-276.

Violations.

Any person violating any provision of this Article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

Section 50-277 thru 50-287.

Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE I. In General

Section 54-1. 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:

Administrative official means the City Manager or such other full time employee of the City as the City Council may designate.

Alley means a public right-of-way which affords a secondary means of access to abutting property.

Block means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

City engineer means a professional engineer as designated by the City Council.

Deflection angle means the angle between a line and the prolongation of the preceding line.

Design standards means the specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as right-of-way, blocks, easements and lots.

Easement means a grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining any public utilities, storm drainage ways or ponding areas.

Final plat means a drawing or map of a subdivision, meeting all the requirements of the City and in such form as required by the County for purposes of recording.

Flood means a temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

Flood frequency means the average frequency, statistically determined, for which it is expected that a specific flood level or discharge may be equaled or exceeded.

Flood fringe means that portion of the floodplain outside of the floodway.

Floodplain means the areas adjoining a watercourse which has been or hereafter may be covered by the regional flood.

Floodproofing means a combination of structural provision, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages.

Floodway means the channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood.

Lot means a portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

Lot split means a subdivision of a parcel of land into two lots along an existing public street not involving the opening, widening, or extension of any public street.

Master plan means a comprehensive plan, prepared and adopted by the Planning Commission and adopted by the City Council, which indicates the general locations recommended for the various functional classes of public works, streets and thoroughfares, places and structures and for the general physical development of the city and includes any unit or part of such plan separately adopted and any amendment to such plans or parts thereof.

Owner means and includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi public corporation, private corporation, or a combination of any of them.

Pedestrian way means a public or private right-of-way across a block or within a block to provide access, to be used by pedestrians and which may be used for the installation of utilities where approved by the Planning Commission and City Council.

Percentage of grade means the distance vertically (up or down) from the horizontal in feet and decimals of a foot for each 100 feet of horizontal distance.

Preliminary plat means the preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission for its consideration.

Protective covenants means contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical, social and economic integrity of any given area.

Regional flood means a flood which is representative of large floods known to have occurred generally in the State and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

Regulatory flood protection elevation means a point not less than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the floodplain. It is the elevation to which uses regulated by this chapter are required to be elevated or flood-proofed.

Street means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.

Street, collector means streets that carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of residential neighborhoods.

Street, cul-de-sac means a minor street with only one outlet and having an appropriate terminal for the sale and convenient reversal of traffic movement.

Street grade means the centerline grade of the street which shall be related to the property line grades as shown on standard street cross sections on file in the city engineer's office.

Street, local means those streets which are used primarily for access to abutting properties.

Street, major thoroughfares or arterial means streets used primarily for heavy traffic, and serving as an arterial traffic way between the various districts of the community, including the municipal State-aid system, as shown on the master plan.

Street, marginal access means minor streets which are parallel and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

Street width means the shortest distance between lines of lots delineating the street.

Subdivision means the division of a parcel of land into two or more lots or parcels. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Tangent means a straight line which is perpendicular to the radius of a curve where a tangent meets a curve.

U.S.G.S. datum means the United States Geodetic Survey Datum. (1929 adjustment).

Vertical curve means the surface curvature connecting lines of different percentage of grade.

Cross reference--Definitions generally, § 1-2.

Section 54-2. Purpose of chapter.

In order to safeguard the best interests of the community and to assist the subdivider in harmonizing his interests with those of the City at large, this chapter is adopted in order that adherence to the chapter will bring results beneficial to both parties. Because each new subdivision becomes a permanent unit in the basic unit structure of the expanding community, and to which the community will be forced to adhere, and because piecemeal planning of subdivisions will bring an undesirable disconnected patchwork of pattern and poor circulation of traffic unless its design and arrangement is correlated to a master plan of the city aiming at a unified scheme of community interests, all subdivision of land hereafter submitted for approval to the planning commission shall, in all respects, fully comply with the regulations set forth in this chapter. It is the purpose of this chapter to make certain regulations and requirements for the platting of land within the City pursuant to the authority contained in Minn. Stats. Chapters. 429, 462 and 471, which regulations the City Council deems necessary for the health, safety and general welfare of this community.

Section 54-3. Applicability of chapter.

The regulations in this Chapter governing plats and subdivisions shall, pursuant to Minn. Statutes 462.357(1), apply within the corporate limits of the City of Anoka.

The 100-year flood profile of the Mississippi River and the 100-year flood profile of the Rum River, both prepared by the United States Geological Survey, and the zoning map which is a part of Chapter 74 of this Code are made a part of this chapter by reference and are on file in the office of the City Clerk. The elevations mentioned in this chapter refer to such 100-year profile elevations.

Section 54-4. Land suitability.

No land shall be subdivided which is held unsuitable for its intended use by the City Council for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earth slides, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature harmful to the health, safety or welfare of the future residents of the proposed subdivision or community. However the City Council may approve the preliminary and final plats if the subdivider improves the land consistent with the standards of this and other applicable ordinances in order to make the area, in the opinion of the City Council, suitable for its intended use. Should the City Council determine that only part of a proposed subdivision can be safely developed, it shall limit development to that part and require that the specifications for development be consistent with its determination.

Section 54-5. Registered land surveys.

All registered land surveys in the City shall be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and that the planning commission shall first approve the arrangement, sizes, and relationship of proposed tracts in such registered land surveys, and that tracts to be used as easements or roads should be so designated. Unless such Planning Commission approval and City Council approval in accordance with the City standards set forth in this chapter have been obtained, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the city may refuse to take over tracts as streets or roads to improve, repair or maintain any such tracts unless so approved.

Section 54-6. Platting land divisions.

All subdivisions that create two or more parcels shall be platted, except as provided otherwise in this Chapter.

State law reference--Mandatory provisions, Minn. Stats. § 462.358, subd. 3a.

Section 54-7. Lot splits.

- (a) Applications for lots splits that do not require variances may be administratively approved by the City Planner. An application form, along with three copies of a site sketch and the appropriate fee, as determined by the City Council, must be submitted to the City Planner. The City Planner may require the applicant to submit a survey showing the proposed lots to be created.
- (b) The City Planner may require such revisions as are necessary to meet code requirements.
- (c) If lot split approval is denied by the City Planner, the applicant may appeal that decision to the Planning Commission. The Planning Commission shall recommend approval, disapproval or approval of the lot split with specified modifications to the City council.
- (d) The City Council will take action on lot split requests which have been reviewed by the Planning Commission. The City Planner will notify the owner and subdivider in writing of the Council's decision.

Section 54-8. Conveyance by metes and bounds.

- (a) No conveyance of land in the land conveyed is described by metes and bounds, or by a portion of a platted lot, or by reference to an unapproved land survey made after April 21, 1961, to an unapproved plat made after June 3, 1962, the date upon which the ordinance from which this chapter is derived became effective, shall be made or recorded unless the parcel described in the conveyance:
 - (1) Was a separate parcel of record on June 3, 1962; or
 - (2) Was the subject of a written agreement to convey entered into prior to June 3, 1962; or
 - (3) Was a separate parcel of not less than 22 acres in area and 150 feet in width on January 1, 1966; or
 - (4) Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980; or

- (5) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or
 - (6) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.
- (b) In any case in which compliance with the restrictions of subsection (a) of this section will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the City Council may waive such compliance by adoption of a resolution to that effect pursuant to the provisions of this chapter. All requests for waivers shall require a public hearing.
- (c) Each request for waiver shall be accompanied by the appropriate fee determined by the Council.

State law references--Similar provisions, Minn. Stats. § 462.358, subd. 4b; variances, Minn. Stats. § 462.358, subd. 6.

Section 54-9. Variances.

- (a) The Planning Commission may recommend a variance from the provisions of this chapter when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Council shall prescribe only condition it deems necessary to or desirable for the public interest. In making its findings, as required in this subsection, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to preside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Commission finds:
 - (1) That there are special circumstances or conditions affecting such property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.
 - (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
 - (3) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which property is situated.
- (b) Applications for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration by the Planning Commission, stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the Planning Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

Secs. 54-10-54-30.

Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE II. Plats.

***State law reference--Platting procedures, Minn. Stats. § 462.358, subd. 3b.**

Division 1. Generally

Section 54-31. Required generally.

- (a) *Form.* Every proposed subdivision, excluding lot splits, must be submitted in the form of a preliminary plat to the City Planner who will transmit it to the planning commission for review and recommendation to the City Council. The preliminary plat is not intended to be a final plat. The purpose of a preliminary plat is to graphically show all of the facts to determine whether the proposed plat meets the requirements of this chapter. The preliminary plat shall be signed by a registered land surveyor. Inaccurate or insufficient information supplied by the applicant may be cause for disapproval of a preliminary plat.
- (b) *Filing.* The subdivider must, at least three weeks prior to the appropriate Planning Commission meeting, submit five prints and a 8½-inch by 11-inch reduction of the proposed preliminary plat and any other required plans to the City Planner with an application for approval. A fee, as determined by the City Council, must be submitted at the time of application.

Section 54-32. Contents of preliminary plat.

The following information must be included on the preliminary plat:

- (1) Plat identification and description.
 - a. Proposed name of the subdivision. The name cannot duplicate the name of any plat previously recorded in the County.
 - b. Location by section, township and range or by other legal description.
 - c. Names and addresses of the owner and subdivider having control of the land included in the preliminary plat, the designer of the plat and the surveyor.
 - d. Graphic scale, of a size not less than one inch equals 200 feet.
 - e. North point.
 - f. Date of preparation.
- (2) Existing conditions.
 - a. Boundary line survey. The survey shall show the location of any buildings, fences, existing public or private utilities, or other substantial structures on or within the boundary lines of the plat.
 - b. Total acreage in the preliminary plat computed to one one-hundredth of an acre.

- c. Location and names of existing or platted streets or rights-of-way, parks and other public open spaces, permanent buildings or structures, easements and section and corporate lines within the preliminary plat and 100 feet beyond the plat boundaries.
 - d. If the plat is a replat of any former plat, the lot and block arrangement of the original plat, along with its original name, must be indicated by dotted or dashed lines. Any revised or vacated roadways, railroad rights-of-way, walkways, parklands and easements of the original plat must be indicated.
 - e. Location and size of existing paved streets, railroads, sewers, water mains, quarries, gravel pits, culverts or any underground facilities within the tract and 100 feet beyond the plat boundaries.
 - f. Boundary lines of adjoining platted or unplatte land within 100 feet of the plat as shown on the County records and the owner's name and address indicated.
 - g. The preliminary plat and a reproducible copy, superimposed on a contour map compiled to the national map accuracy standards with a contour interval not greater than two feet. The following must also be depicted: watercourses, wetlands and marshes, including their acreage; rock outcrops; floodplain, floodway and flood fringe areas; and other significant features. United States Geodetic Survey datum must be used for all topographic mapping. High water elevations and the date thereof must be indicated if applicable.
 - h. Sufficient soil borings to determine soil classifications and water table elevations, including the depth of proposed utilities.
 - i. A copy of restrictive covenants, if any, and that of all adjoining subdivisions.
- (3) Design features.
- a. Layout of streets, showing right-of-way widths and names of streets.
 - b. Location and width of alleys, pedestrian ways and utility easements.
 - c. Proposed street and alley grades, if any, and a complete set of profiles showing both existing and proposed grade lines.
 - d. Location and size of storm and sanitary sewer lines, water mains and approximate gradient of sewer lines.
 - e. Layout, lot and block numbers, and typical lot dimensions scaled to the nearest foot.
 - f. Areas other than those mentioned above intended to be conveyed for public use, including the size of such areas.
 - g. A separate draft of proposed restrictive covenants, if they are to be used, for the preliminary plat and restrictive deed covenants covering plats within floodplain areas for the purpose of insuring that the areas will be left essentially in the state shown on the plat.

Section 54-33. Review.

The preliminary plat submission shall be reviewed by the planning commission to determine its conformity to all regulations which affect subdivisions. Copies of the preliminary plat will be transmitted by the city planner, to the director of public works, the park and recreation director, and other appropriate officials for their recommendations concerning matters within their jurisdiction.

Section 54-34. Approval.

- (a) *Planning Commission approval.* The Planning Commission shall conduct a public hearing according to the procedure set forth in Chapter 74 on the proposed plat at which interested persons shall be given an opportunity to be heard. The planning commission shall recommend approval, disapproval or approval of the plat with specified modifications to the City Council.
- (b) *City Council action.* The City Council will take action on the preliminary plat within 120 days of the date of filing the application with the City Planner. If the recommendation from the Planning Commission has not been received within the 120-day period, the City Council may act without such recommendation. The City Council may require such revisions in the preliminary plat as it deems necessary for the health, safety and general welfare of the City. Approval of a preliminary plat shall not constitute final approval. Approval of the preliminary plat by the City Council shall give the applicant the following rights for a 12-month period from the date of approval:
 - (1) That the general terms and conditions under which the approval was granted will not be changed by the City;
 - (2) That the applicant may submit on or before such expiration date, the whole or any part of the approved plat for final approval; and
 - (3) The City Council may extend the time period of preliminary approval, upon written application by the developer and for good cause shown. Such extension shall not exceed a 12-month period.

Section. 54-35--54-50. Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE II. Plats

Division 2. Final Plats

Section 54-51. Submission.

- (a) After approval of the preliminary plat, the subdivider may, within 12 months, submit to the City Planner the final plat of the subdivision incorporating all modifications required in the preliminary plat.
- (b) If requested by the subdivider, the City Council may extend the time limit on an annual basis.
- (c) The final plat may constitute the entire area covered by the preliminary plat or only that portion which the subdivider proposes to record, provided that the public improvements to be constructed in the area covered by the plat are sufficient to provide for the health, safety, and convenience of the future residents and for access to contiguous areas.

State law reference--Effect of approval of preliminary plat, Minn. Stats. § 462.358, subd. 3c.

Section 54-52. Filing a final plat.

- (a) Application for final plat approval must be made to the City Planner at least two weeks prior to the appropriate meeting of the City Council.
- (b) At the same time that the application for final plat approval is made with the City Planner, a final drawing must be presented.
- (c) Five black-on-white or other acceptable reproductions and an 8½-inch by 11-inch reduction must accompany the original drawing.
- (d) The final plat shall be prepared in accordance with the requirements of Minn. Stats. Ch. 505 and signed by the owners, mortgagees and surveyor. The subdivider must furnish an opinion from an attorney-at-law showing that the fee title is in the name of the owner as shown on the plat or the subdivider shall furnish evidence of a title insurance policy indicating the such ownership.

Section 54-53. Review and recommendation.

- (a) The City Planner will transmit a copy of the final plat to the Director of Public Works for his recommendation. Other copies of the plat will be retained by the Planning Department for public inspection.
- (b) The report of the Director of Public Works will be submitted to the City Planner. The Director of Public Works will state whether the final plat and proposed or constructed improvements conform to the City's engineering standards as established in this chapter. The Director of Public Works shall also establish the required payment for City administrative and engineering costs and the amount of escrow funds required for installation of site improvements and shall establish any other engineering requirements.
- (c) The City Planner will verify that the final plat is in significant agreement with the preliminary plat and that it meets all ordinances and regulations of the City.

Section 54-54. Disposition of final plat by city council.

- (a) If the plat meets engineering and Planning Department requirements, it will be submitted to the City Council for approval or disapproval.

- (b) The City Planner will notify the owner and subdivider in writing of the Council's decision.

Section 54-55. Recording final plat.

If the City Council approves the final plat, the owner will record the plat within 30 days in accordance with Minn. Stats. Ch. 505 with the County Recorder or register of titles, as the case may be, and return a fully recorded, reproducible Mylar copy to the Director of Public Works. In addition, either a Mylar copy at a scale of 200 feet to the inch or an electronic plat file must be submitted to the Director of Public Works.

Section 54-56. Final plat contents.

The final plat must contain the following:

- (1) All information, except topographic data, water and sewer locations, required on the preliminary plat shall be accurately shown.
- (2) The plat shall be at a scale of not less than one inch equals 200 feet.
- (3) Municipal, township, county or section lines accurately tied to the lines of the subdivision by distance and angles.
- (4) Names of new streets and roadways. A sequence of street naming shall be followed, consistent with the pattern that has been established by usage in the particular area under consideration. All dimensions shall be shown for streets, roadways, etc., and horizontal curve data shall be indicated by central angle, radii and arc length.
- (5) The name of the subdivision shall be lettered in prominent print at the top of the plat, together with the name of the City and County wherein the subdivision lies. The name of the subdivision shall be simple in nature, easy to pronounce and shall not duplicate in exact name any plat of record in the County.
- (6) Form of approval by the City Council as follows:

Approved by the City Council of the City of Anoka, Minnesota this _____ day of _____.

Signed: _____
Mayor

Attest: _____
City Clerk

- (7) Form of approval of the Planning Commission as follows:

Approved by the Planning Commission of the City of Anoka, Minnesota this _____ day of _____.

Signed: _____
Chair

Attest: _____
Secretary

- (8) Form of approval by County authorities as required by their standards.

Secs. 54-57--54-80. Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE III. Design Standards

Division 1. Generally

Section 54-81. General requirements.

- (a) The planning commission in its review of a preliminary plat, will take into consideration the requirements of the community and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and widths of streets, the general drainage situation, lot sizes and arrangement, as well as master plan requirements such as parks, school sites, boulevards and highways, but not limited to these.
- (b) The preliminary plat must cover all of the subdivider's contiguous land, but the final plat may cover only a portion of the preliminary plat; provided, that it is in conformance with an approved preliminary plat and other requirements of this chapter.
- (c) Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
- (d) Subdivisions showing unplatted strips or private streets controlling access to public ways shall not receive approval.
- (e) No land shall be subdivided which is held unsuitable by the planning commission for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of the Floodplain Ordinance of Chapter 74 of this Code, and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. In the general floodplain district, applicants shall provide the information required in Chapter 74 of this Code. The planning commission shall evaluate the subdivision in accordance with procedures established in Chapter 74 of this Code.

Section 54-82. Streets.

- (a) The arrangement, character, extent, width and location of streets shall conform to the master plan, the approved standard street sections and all applicable ordinances and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to runoff of storm water, to public convenience and safety and in their appropriate relation to the proposed uses of the area to be served.
- (b) Street right-of-way widths shall be a continuation of the existing right-of-way width or as shown in the master plan and where not shown therein, shall be not less than as follows:

Major thoroughfare	100 feet
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Collector	80 feet
Minor and marginal access	60 feet
Terminating in cul-de-sac	60 feet
(c)	Street intersections, at both centerline, and property line, insofar as practical shall be at right angles.
(d)	Street jogs with centerline offsets of less than 125 feet shall be avoided.
(e)	A tangent of at least 100 feet long shall be introduced between reverse curves on arterial and collector streets and 50 feet on other streets.
(f)	Where street center lines within a block have a deflection angle of more than ten degrees there shall be a connecting curve with a radius adequate to insure a sight distance of not less than 200 feet for minor and collector streets, and of such greater radii as the planning commission shall determine for special cases.
(g)	Property lines at street intersections shall be rounded with a radius of at least 20 feet or with comparable cut-offs or chords in place of rounded corners, on all street rights-of-way which are less than 60 feet in width.
(h)	Street grades wherever feasible shall not exceed seven percent and in no case shall they be less than three-tenths percent.
(i)	Different connecting street gradients shall be connected with vertical parabolic curves. Minimum length, in feet, of these curves for collector streets shall be 15 times the algebraic difference in the percent of grade of the two adjacent slopes. For minor streets the minimum length shall be 7½ times the algebraic difference in the percent of grade of the two adjacent slopes.
(j)	Minor streets shall be so aligned that their use by through traffic will be discouraged.
(k)	Cul-de-sac streets designed to be so permanently, shall not be longer than 500 feet, measured along the center line from the intersection of origin to end of right-of-way. Each cul-de-sac shall have a terminus of nearly circular shape with a minimum right-of-way diameter of 100 feet and a minimum outside roadway diameter of 80 feet. The property line at the intersection of the turnaround and the straight portion of the street shall be rounded at a radius of not less than 20 feet. Where a street dead ends at the property line of the tract, the developer shall submit a plan for ingress and egress acceptable to the planning commission.
(l)	Half-streets shall be prohibited, except where essential to the reasonable development of the subdivision or the completion of the existing half-street in conformity with other requirements of these regulations and where the planning commission finds that it will be practicable to require the dedication of the other half when the adjoining property is subdivided.
(m)	Street names or numbers shall be used and shall not duplicate or be confused with names of existing streets and they shall be subject to approval by the planning commission.

- (n) Alleys, where permitted by the city, shall be at least 20 feet wide in residential areas and at least 24 feet wide in commercial areas. The city may require alleys in commercial areas where adequate off-street loading space is not available. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement. Dead-end alleys shall be avoided, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end.
- (o) All finished street surfaces shall be no more than one foot below the regulatory flood protection elevation.

Cross reference--Streets, sidewalks and other public places, ch. 50.

Section 54-83. Easements.

- (a) Easements at least 14 feet wide, centered on rear or side lot lines, shall be provided for utilities, where necessary. Easements shall have continuity of alignment from block to block and at deflection points, easements for pole-line anchors shall be provided.
- (b) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourses shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area.

Section 54-84. Blocks.

- (a) The maximum length of blocks shall be 1,800 feet. Blocks over 900 feet long may require pedestrian ways at least ten feet wide at their approximate centers. The use of additional access ways, to schools, parks and other destinations may be required.
- (b) Blocks intended for commercial and industrial use must be designed as such, and the block must be of sufficient size to provide for adequate off-street parking, loading and such other facilities as are required to satisfy the requirements of chapter 74.

Section 54-85. Lots.

- (a) The minimum lot size and dimensions in subdivisions designed for the R-1 residence zone shall be:
 - (1) Width, 75 feet at the established building setback line and 60 feet at the front lot line.
 - (2) Width of 75 feet at the established building setback line and 50 feet at the property line of cul-de-sac.
 - (3) Depth, 120 feet.
 - (4) Area, 10,000 square feet.

- (b) Lots intended for commercial, industrial or any other than R-1 single-family residential use, shall be designed as such, and the lot shall be of adequate size to allow off-street parking, loading areas and such other facilities as are required by Chapter 74.
- (c) Corner lots in residence zones shall have at least ten feet extra width and sufficient depth for established building setback on both streets.
- (d) All lots must have at least the minimum required frontage on a public dedicated street.
- (e) All lots must have a minimum of 30 feet in width at the rear lot line.
- (f) Side lot lines shall be substantially at right angles or radial to the street line.
- (g) Double-frontage or lots with frontage on two parallel streets shall not be permitted except:
 - (1) Where lots back on an arterial street in which case vehicular and pedestrian access between the lots and arterial street shall be prohibited. Such double-frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.
 - (2) Where topographic or other conditions render subdividing otherwise unreasonable, such double-frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.
- (h) Lots abutting on a watercourse, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding.

Sections. 54-86--54-100. Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE III. **Design Standards**

Division 2. **Public Sites and Open Spaces**

***State law reference--Authority to required dedication, Minn. Stats. § 462.358, subd. 2b.**

Section 54-101. Application of division.

The requirements of this division shall apply at the time of the final approval of the plat, replat, subdivision or waiver of platting. The provisions of section 54-113 and shall apply to any plat, replat, subdivision, waiver of platting, or development receiving final approval after August 24, 1980.

Section 54-102. Park and Recreation Director review.

The director of planning shall transmit a copy of all preliminary plats involving land to be dedicated for parks to the park and recreation director, who shall report back to the director of planning within 15 days on the appropriateness of any proposed park dedication.

Section 54-103. Dedication required.

In every plat, replat, or subdivision of land allowing development for residential land uses, or where a waiver of platting is granted (but excluding simple lot line adjustments which do not create additional lots), and at the sole determination by the City, applicants and/or developers shall dedicate land for parks, playgrounds, public open spaces or trails and/or shall make a cash contribution to the City's Park Dedication Fund roughly related to the anticipated effect of the subdivision on the park and trail system. The amounts listed in this section or established in the Anoka Master Fee Schedule Ordinance are the City's best estimate of the dedication or cash contribution needed to offset the effect of the subdivision on the park and trail system. The requirement may also be met with a combination of land and cash, if approved by the City Council.

Section 54-104. Land Dedication.

(a) The amount of land required to be dedicated by a developer shall be based upon the gross area of the subdivision or development, which could be developed for residential, commercial, or industrial purposes and shall be determined as follows:

(1) *Residential development.*

Dwelling Unit/Acre	Land to be Dedicated
0--1	5%
2--3	10%
4--5	12%

6--7	14%
8--12	16%
13--16	18%

For each unit over 16/acre, add 0.5%

Provided that if a lot, which is a platted lot as of August 1, 1986, is split into two lots, the land to be dedicated shall be five percent (5%).

(2) Commercial and industrial subdivisions shall be exempt from Park Land Dedication.

- (b) In establishing a reasonable portion to be dedicated, the City may give credit for open space, park, recreational or common areas and facilities reserved for the subdivision.
- (c) Land shall be suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of the park land will include tree cover, topography, access, location, and future park needs pursuant to the Comprehensive Plan. Wetlands, ponding areas, and drainage ways shall not be eligible for park dedication credit. Park land to be dedicated shall be above the ordinary high water level. Grades exceeding twelve percent (12%) or areas unsuitable for park development will not be considered for dedication unless specifically accepted by the City Council for an intended public purpose. Land with trash, junk, pollutants and/or unwanted structures is not acceptable.

Section 54-105.

Conformance with comprehensive plan.

Land dedicated under this provision shall reasonably conform to the City's Comprehensive Plan. The Planning Commission and Park Board shall review proposed dedication of land or proposed payment of cash in lieu of land and shall recommend to the City Council appropriate action. If the Comprehensive Plan of the parcel of land to be divided shows public property in excess of that required in subsection 54-104(a) the Planning Commission, Park Board and City Council shall, before they approve or disapprove the plat, consider the Comprehensive Plan and determine whether to take the necessary steps to acquire, by purchase or condemnation, all or part of the public property as shown on the Comprehensive Plan.

Section 54-106.

Cash contributions in lieu of accepting dedication of land.

The City shall have the option to require cash contributions in lieu of accepting dedication of land or the City may require a combination of land dedication and cash payment. The cash contribution shall be an amount adopted in the Anoka Master Fee Schedule Ordinance reflecting roughly proportional effect that the new subdivision will have on the City parks, playgrounds, open space and trail system and the estimated fair market value of the property at the time of the final plat. The estimate of fair mark value shall include value added to the property by utilities, streets, and other public improvements serving the land but shall exclude value added by all other improvements to the land.

Section 54-107.

Cash payments in special fund.

Contributions of cash payments in lieu of land dedication shall be placed in a special fund which shall be held and used by the City to acquire land for, or to improve, parks, playgrounds, trails, public open space, or storm water holding areas or ponds.

Section 54-108.

When cash shall be required.

The City shall require a cash payment in lieu of park dedication whenever the proposed dedication of land for public use is not needed, is not suitable for the intended use, is too small for practical maintenance, or whenever cash payment would be more beneficial to the development of the overall park system than dedication of land within the property to be developed.

Section 54-109.

Less dedication.

If the City accepts park dedication in an amount less than that specified in subsection 54-104(a), the subdivider or developer shall pay in addition a fraction of the park dedication fee otherwise payable, the numerator of which is the difference between the percentage of land dedicated and the percentage of land required to be dedicated, and the denominator of which is the percentage of land to be dedicated.

Section 54-110.

More dedication.

If the City requires park dedication in excess of the amount required by subsection 54-104(a), the City shall pay to the subdivider or developer the fair market value of the land in excess of the percentage of land required to be dedicated.

Section 54-111.

Credit for private open space.

Where a private open space for park or recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, a credit of up to 25 percent (25%) of the requirements of subsection 54-104(a) may be given, provided that the following conditions are met:

- (a) That such land area is not occupied by non-recreational buildings and is available for the use of all the residents of the proposed subdivision.
- (b) That required setbacks shall not be included in the computation of such private open space.
- (c) That the use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of the property within the tract and which cannot be defeated or eliminated without the consent of the City Council.
- (d) That the proposed private open space is of a size, shape, location, topography, and usability for park and recreational purposes or contains unique national features that are important to be preserved.
- (e) That the proposed private open space reduces the demand for public recreational facilities to serve the development.

Section 54-112.

Dedication appeal.

If the applicant or developer does not believe that the park dedication required by this ordinance fairly and accurately represents the effect of the subdivision on the park or trail

system of the City, the applicant or developer may request that the City prepare an in-depth study of the effect of the subdivision on the park and trail system and an estimate of that effect in money and/or land. The applicant may provide evidence and information in support of their claims to be included or considered in conjunction with the study. All costs of said study shall be borne by the developer or applicant.

Upon receipt of the study and support information, the City Council shall make a determination as to whether an adjustment in the park dedication is warranted.

The City shall approve or disapprove a preliminary plat application within one hundred-twenty (120) days following delivery of a completed application in compliance with City ordinances. In the event a dedication study as set forth herein is required, the applicant may be requested to extend the deadline for plat approval for a period not to exceed sixty (60) days, in order to conduct, receive and review the study.

If cash in lieu of land dedication is being required, the developer or applicant may deposit the required cash dedication in an escrow and request preparation of the study. The application may then proceed as if the fee has been paid.

Sections 54-113--54-140. Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE IV. Basic Improvements

Section 54-141. Generally.

- (a) Before a final plat is approved by the city council, the owner and subdivider of the land covered by the plat shall execute and submit to the city council an agreement, which shall be binding on his heirs, personal representatives and assigns, that he will cause no private construction to be made on the plat or file or cause to be filed any application for building permits for such construction until all improvements required under this chapter have been made or arranged for in the manner following as respects the streets to which the lots sought to be constructed have access.
- (b) Prior to the making of such required improvements, the owner or subdivider shall deposit with the city clerk an amount equal to the city engineer's estimated cost of such improvements, either in cash or an indemnity bond, with sureties satisfactory to the city, conditioned upon the payment of all construction costs incurred by the city in making of such improvements and all expense incurred by the city for engineering and legal fees and other expense in connection with the making of such improvements.
- (c) No final plat shall be approved by the city council without first receiving a report from the city engineer certifying that the improvements described in this article, together with the agreements and documents required in this article, meet the minimum requirements of all applicable ordinances. As-built drawings of all improvements shall be filed with the city engineer. Such as-built drawings shall show the date of construction and shall be drawn in such a manner and on such materials to meet the standards of the city available in the city engineer's office. As-built drawings must be completed and filed in the city engineer's office within 60 days of the completion of such improvement. If as-built drawings are not filed within the time period specified the city engineer may be authorized to conduct surveys and complete the drawings and all of the costs pursuant thereto shall be paid by the owner.

Section 54-142. Street grading.

The full width of the street right-of-way shall be graded and paid for by the developer, including the stabilized gravel base of the areas to be paved, in accordance with standards for street construction approved by the city. No prepared street shall be approved if its surface is more than two feet below the regulatory flood protection elevation. The city planning commission and city council may require, where necessary, profiles and elevations of finished streets for areas subject to flooding. Fill may be used for streets provided such fill does not unduly increase flood heights. Drainage openings shall not restrict the flow of water so as to unduly increase flood heights.

Section 54-143. Street improvements.

- (a) Petitions for sidewalks, if required, pavement, curb and gutter covering all streets in the subdivision shall be filed, or, if these improvements are to be installed by the owner or subdivider under contract, a cash deposit or bond covering the cost, as estimated by the city engineer shall be made in accordance with section 54-141.

- (b) A certified copy of the plat restrictions which shall include a provision that, in all instruments of sale or conveyance given before all street improvements have been made, the consignee shall agree to and approve such improvements, and the assessment of their cost.

Cross reference--Streets, sidewalks and other public places, ch. 50.

Section 54-144.

Street trees.

Street trees shall be planted in conformance with a platting plan and standards approved by the city.

Cross reference--Vegetation, ch. 70.

Section 54-145.

Street signs.

Street signs of standard design approved by the city shall be installed at each street intersection.

Section 54-146.

Sidewalks.

A sidewalk six feet in width shall be installed within the street right-of-way in front of each lot fronting on a public street within areas platted after the effective date of the ordinance from which this section is derived before any lot constituting a part of such plat shall be conveyed.

Section 54-147.

Driveways.

A concrete or asphalt driveway at least ten feet wide shall be installed on lots in areas platted after the effective date of this provision. The driveway shall run from the near edge of the roadway into the lot for a distance of at least 25 feet from the front lot line. No lot constituting a part of areas platted after the effective date of this provision and upon which a dwelling has been erected shall be conveyed unless such driveway has been installed.

Section 54-148.

Sewers.

- (a) Sanitary sewers shall be installed to serve all properties in the subdivision where a connection to the city sewer system is available at or reasonably near the boundary of the subdivision.
- (b) Storm drainage facilities, where required, shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from building and onsite waste disposal sites. The city planning commission and city council may require a primary underground system to accommodate frequent floods and a secondary surface system to accommodate less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to protect against surface erosion and siltation of surface waters and to prevent the discharge of excess runoff onto adjacent properties.

- (c) If the subdivision requires additional trunk sewers they may, if approved by the city council, be installed under contract by the city after petition for such additional trunk sewers by the owner. The cost shall be assessed against all lots in the subdivision over a period of not to exceed ten years.
- (d) If approved by the city council, both storm and sanitary sewers may be installed under contract by the city after petition for the storm and sanitary sewers by the owner. The cost shall be assessed against all lots in the subdivision over a period of not to exceed ten years.
- (e) All sewer construction must conform to the standards of the city for such work.
- (f) The city planning commission and city council may prescribe adequate methods for waste disposal. If a sanitary sewer system is located on or near the proposed subdivision, the city planning commission and city council shall require the subdivider to provide sewage facilities and to connect to this system where practical, and shall prescribe the procedures to be followed by the subdivider in connecting to the system. The city planning commission and city council may prohibit installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high ground water, flooding, or unsuitable soil characteristics. The city planning commission and city council may require that the subdivider clearly indicate on the face of the plat and in any deed of conveyance the areas in which soil absorption systems are not to be used. If the subdivision is not to be served by the public city sewer system, private restrictions shall be filed with the final plat and incorporated in each deed, calling for the installation on each lot of an individual sewage disposal system meeting fully the requirements of the city, county, or state officials having jurisdiction.

Cross reference--Utilities, ch. 66.

Section 54-149.

Water supply.

- (a) Where a connection to the city water system is presently available at or reasonably near the boundary of the subdivision, water distribution facilities, including fire hydrants, shall be installed to serve all properties within the subdivision. Water mains shall be a minimum of six inches in diameter and shall meet all city standards therefore. All water systems located in flood prone areas, whether public or private, shall be flood proofed to a point at or above the regulatory flood protection elevation. If there is an existing public water supply system on or near the subdivision, the city planning commission and city council shall require the subdivider to connect to this system, where practical, and prescribe the procedures to be followed.
- (b) If approved by the city council, water mains may be installed under contract by the city after petition for the water mains by the owner. The cost shall be assessed against all lots in the subdivision over a period of not to exceed ten years.

Cross reference--Utilities, ch. 66.

Section 54-150.

Building site improvements.

No subdivision shall be approved for floodway areas if anticipated levees, fills, structures or other features will individually or collectively increase flood flows or damages. The city council shall reasonably assume an equal degree of encroachment on the opposite side of the watercourse in calculating possible effects of the proposed uses.

- (1) Building sites for residences, motels, resorts and similar uses for human occupancy shall not be permitted in floodway areas. These uses may be permitted outside the floodway if building sites are filled to an elevation not lower than one foot below the regulatory flood protection elevation for the particular area. Required fill areas must extend 15 feet beyond the limits of intended structures and, if the subdivision is not to be sewered, must include areas for onsite waste disposal.
- (2) Building sites for structures other than those used for human occupancy outside of floodway areas shall ordinarily be filled as provided in subsection (1) of this section. However, the city council may allow subdivision of areas for commercial and industrial use at a lower elevation as the subdivider protects the areas to the regulatory flood protection elevation by levees, floodwalls, channel modifications, or other protective techniques; or if the subdivider agrees to protect uses through structural flood proofing, flood warning systems or other techniques.
- (3) Should the city council determine that only part of a proposed plat can be safely developed, it shall limit development to that part and require that the specifications for development be consistent with its determination.
- (4) When the subdivider does not intend to develop the plat himself, and the city council determines that additional use controls are required to insure safe development, it may require the subdivider to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on the face of the final recorded plat.

Section 54-151.

Warning signs.

The limits of the areas which have been or would be inundated by the regional flood or by experienced floods of greater magnitude shall be delineated at 1,000 feet intervals by means of firmly placed markers of sufficient size to be easily read from a distance of 20 feet. The markers shall record the maximum known level of flooding or regional flood protection elevation, whichever is greater. The city council shall prescribe the size, shape, lettering and installation instructions for floodplain markers. The cost of preparing and installing such markers shall be borne by the subdivider and the markers shall be installed prior to the sale of lots and construction of any buildings or structures.

CHAPTER 54. SUBDIVISIONS

ARTICLE I. In General

Section 54-1. 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:

Administrative official means the City Manager or such other full time employee of the City as the City Council may designate.

Alley means a public right-of-way which affords a secondary means of access to abutting property.

Block means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

City engineer means a professional engineer as designated by the City Council.

Deflection angle means the angle between a line and the prolongation of the preceding line.

Design standards means the specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as right-of-way, blocks, easements and lots.

Easement means a grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining any public utilities, storm drainage ways or ponding areas.

Final plat means a drawing or map of a subdivision, meeting all the requirements of the City and in such form as required by the County for purposes of recording.

Flood means a temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

Flood frequency means the average frequency, statistically determined, for which it is expected that a specific flood level or discharge may be equaled or exceeded.

Flood fringe means that portion of the floodplain outside of the floodway.

Floodplain means the areas adjoining a watercourse which has been or hereafter may be covered by the regional flood.

Floodproofing means a combination of structural provision, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages.

Floodway means the channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood.

Lot means a portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

Lot split means a subdivision of a parcel of land into two lots along an existing public street not involving the opening, widening, or extension of any public street.

Master plan means a comprehensive plan, prepared and adopted by the Planning Commission and adopted by the City Council, which indicates the general locations recommended for the various functional classes of public works, streets and thoroughfares, places and structures and for the general physical development of the city and includes any unit or part of such plan separately adopted and any amendment to such plans or parts thereof.

Owner means and includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi public corporation, private corporation, or a combination of any of them.

Pedestrian way means a public or private right-of-way across a block or within a block to provide access, to be used by pedestrians and which may be used for the installation of utilities where approved by the Planning Commission and City Council.

Percentage of grade means the distance vertically (up or down) from the horizontal in feet and decimals of a foot for each 100 feet of horizontal distance.

Preliminary plat means the preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission for its consideration.

Protective covenants means contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical, social and economic integrity of any given area.

Regional flood means a flood which is representative of large floods known to have occurred generally in the State and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

Regulatory flood protection elevation means a point not less than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the floodplain. It is the elevation to which uses regulated by this chapter are required to be elevated or flood-proofed.

Street means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.

Street, collector means streets that carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of residential neighborhoods.

Street, cul-de-sac means a minor street with only one outlet and having an appropriate terminal for the sale and convenient reversal of traffic movement.

Street grade means the centerline grade of the street which shall be related to the property line grades as shown on standard street cross sections on file in the city engineer's office.

Street, local means those streets which are used primarily for access to abutting properties.

Street, major thoroughfares or arterial means streets used primarily for heavy traffic, and serving as an arterial traffic way between the various districts of the community, including the municipal State-aid system, as shown on the master plan.

Street, marginal access means minor streets which are parallel and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

Street width means the shortest distance between lines of lots delineating the street.

Subdivision means the division of a parcel of land into two or more lots or parcels. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Tangent means a straight line which is perpendicular to the radius of a curve where a tangent meets a curve.

U.S.G.S. datum means the United States Geodetic Survey Datum. (1929 adjustment).

Vertical curve means the surface curvature connecting lines of different percentage of grade.

Cross reference--Definitions generally, § 1-2.

Section 54-2. Purpose of chapter.

In order to safeguard the best interests of the community and to assist the subdivider in harmonizing his interests with those of the City at large, this chapter is adopted in order that adherence to the chapter will bring results beneficial to both parties. Because each new subdivision becomes a permanent unit in the basic unit structure of the expanding community, and to which the community will be forced to adhere, and because piecemeal planning of subdivisions will bring an undesirable disconnected patchwork of pattern and poor circulation of traffic unless its design and arrangement is correlated to a master plan of the city aiming at a unified scheme of community interests, all subdivision of land hereafter submitted for approval to the planning commission shall, in all respects, fully comply with the regulations set forth in this chapter. It is the purpose of this chapter to make certain regulations and requirements for the platting of land within the City pursuant to the authority contained in Minn. Stats. Chapters. 429, 462 and 471, which regulations the City Council deems necessary for the health, safety and general welfare of this community.

Section 54-3. Applicability of chapter.

The regulations in this Chapter governing plats and subdivisions shall, pursuant to Minn. Statutes 462.357(1), apply within the corporate limits of the City of Anoka.

The 100-year flood profile of the Mississippi River and the 100-year flood profile of the Rum River, both prepared by the United States Geological Survey, and the zoning map which is a part of Chapter 74 of this Code are made a part of this chapter by reference and are on file in the office of the City Clerk. The elevations mentioned in this chapter refer to such 100-year profile elevations.

Section 54-4. Land suitability.

No land shall be subdivided which is held unsuitable for its intended use by the City Council for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earth slides, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature harmful to the health, safety or welfare of the future residents of the proposed subdivision or community. However the City Council may approve the preliminary and final plats if the subdivider improves the land consistent with the standards of this and other applicable ordinances in order to make the area, in the opinion of the City Council, suitable for its intended use. Should the City Council determine that only part of a proposed subdivision can be safely developed, it shall limit development to that part and require that the specifications for development be consistent with its determination.

Section 54-5. Registered land surveys.

All registered land surveys in the City shall be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and that the planning commission shall first approve the arrangement, sizes, and relationship of proposed tracts in such registered land surveys, and that tracts to be used as easements or roads should be so designated. Unless such Planning Commission approval and City Council approval in accordance with the City standards set forth in this chapter have been obtained, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the city may refuse to take over tracts as streets or roads to improve, repair or maintain any such tracts unless so approved.

Section 54-6. Platting land divisions.

All subdivisions that create two or more parcels shall be platted, except as provided otherwise in this Chapter.

State law reference--Mandatory provisions, Minn. Stats. § 462.358, subd. 3a.

Section 54-7. Lot splits.

- (a) Applications for lots splits that do not require variances may be administratively approved by the City Planner. An application form, along with three copies of a site sketch and the appropriate fee, as determined by the City Council, must be submitted to the City Planner. The City Planner may require the applicant to submit a survey showing the proposed lots to be created.
- (b) The City Planner may require such revisions as are necessary to meet code requirements.
- (c) If lot split approval is denied by the City Planner, the applicant may appeal that decision to the Planning Commission. The Planning Commission shall recommend approval, disapproval or approval of the lot split with specified modifications to the City council.
- (d) The City Council will take action on lot split requests which have been reviewed by the Planning Commission. The City Planner will notify the owner and subdivider in writing of the Council's decision.

Section 54-8. Conveyance by metes and bounds.

- (a) No conveyance of land in the land conveyed is described by metes and bounds, or by a portion of a platted lot, or by reference to an unapproved land survey made after April 21, 1961, to an unapproved plat made after June 3, 1962, the date upon which the ordinance from which this chapter is derived became effective, shall be made or recorded unless the parcel described in the conveyance:
 - (1) Was a separate parcel of record on June 3, 1962; or
 - (2) Was the subject of a written agreement to convey entered into prior to June 3, 1962; or
 - (3) Was a separate parcel of not less than 22 acres in area and 150 feet in width on January 1, 1966; or
 - (4) Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980; or

- (5) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or
 - (6) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.
- (b) In any case in which compliance with the restrictions of subsection (a) of this section will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the City Council may waive such compliance by adoption of a resolution to that effect pursuant to the provisions of this chapter. All requests for waivers shall require a public hearing.
- (c) Each request for waiver shall be accompanied by the appropriate fee determined by the Council.

State law references--Similar provisions, Minn. Stats. § 462.358, subd. 4b; variances, Minn. Stats. § 462.358, subd. 6.

Section 54-9. Variances.

- (a) The Planning Commission may recommend a variance from the provisions of this chapter when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Council shall prescribe only condition it deems necessary to or desirable for the public interest. In making its findings, as required in this subsection, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to preside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Commission finds:
 - (1) That there are special circumstances or conditions affecting such property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.
 - (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
 - (3) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which property is situated.
- (b) Applications for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration by the Planning Commission, stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the Planning Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

Secs. 54-10-54-30.

Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE II. Plats.

***State law reference--Platting procedures, Minn. Stats. § 462.358, subd. 3b.**

Division 1. Generally

Section 54-31. Required generally.

- (a) *Form.* Every proposed subdivision, excluding lot splits, must be submitted in the form of a preliminary plat to the City Planner who will transmit it to the planning commission for review and recommendation to the City Council. The preliminary plat is not intended to be a final plat. The purpose of a preliminary plat is to graphically show all of the facts to determine whether the proposed plat meets the requirements of this chapter. The preliminary plat shall be signed by a registered land surveyor. Inaccurate or insufficient information supplied by the applicant may be cause for disapproval of a preliminary plat.
- (b) *Filing.* The subdivider must, at least three weeks prior to the appropriate Planning Commission meeting, submit five prints and a 8½-inch by 11-inch reduction of the proposed preliminary plat and any other required plans to the City Planner with an application for approval. A fee, as determined by the City Council, must be submitted at the time of application.

Section 54-32. Contents of preliminary plat.

The following information must be included on the preliminary plat:

- (1) Plat identification and description.
 - a. Proposed name of the subdivision. The name cannot duplicate the name of any plat previously recorded in the County.
 - b. Location by section, township and range or by other legal description.
 - c. Names and addresses of the owner and subdivider having control of the land included in the preliminary plat, the designer of the plat and the surveyor.
 - d. Graphic scale, of a size not less than one inch equals 200 feet.
 - e. North point.
 - f. Date of preparation.
- (2) Existing conditions.
 - a. Boundary line survey. The survey shall show the location of any buildings, fences, existing public or private utilities, or other substantial structures on or within the boundary lines of the plat.
 - b. Total acreage in the preliminary plat computed to one one-hundredth of an acre.

- c. Location and names of existing or platted streets or rights-of-way, parks and other public open spaces, permanent buildings or structures, easements and section and corporate lines within the preliminary plat and 100 feet beyond the plat boundaries.
 - d. If the plat is a replat of any former plat, the lot and block arrangement of the original plat, along with its original name, must be indicated by dotted or dashed lines. Any revised or vacated roadways, railroad rights-of-way, walkways, parklands and easements of the original plat must be indicated.
 - e. Location and size of existing paved streets, railroads, sewers, water mains, quarries, gravel pits, culverts or any underground facilities within the tract and 100 feet beyond the plat boundaries.
 - f. Boundary lines of adjoining platted or unplatte land within 100 feet of the plat as shown on the County records and the owner's name and address indicated.
 - g. The preliminary plat and a reproducible copy, superimposed on a contour map compiled to the national map accuracy standards with a contour interval not greater than two feet. The following must also be depicted: watercourses, wetlands and marshes, including their acreage; rock outcrops; floodplain, floodway and flood fringe areas; and other significant features. United States Geodetic Survey datum must be used for all topographic mapping. High water elevations and the date thereof must be indicated if applicable.
 - h. Sufficient soil borings to determine soil classifications and water table elevations, including the depth of proposed utilities.
 - i. A copy of restrictive covenants, if any, and that of all adjoining subdivisions.
- (3) Design features.
- a. Layout of streets, showing right-of-way widths and names of streets.
 - b. Location and width of alleys, pedestrian ways and utility easements.
 - c. Proposed street and alley grades, if any, and a complete set of profiles showing both existing and proposed grade lines.
 - d. Location and size of storm and sanitary sewer lines, water mains and approximate gradient of sewer lines.
 - e. Layout, lot and block numbers, and typical lot dimensions scaled to the nearest foot.
 - f. Areas other than those mentioned above intended to be conveyed for public use, including the size of such areas.
 - g. A separate draft of proposed restrictive covenants, if they are to be used, for the preliminary plat and restrictive deed covenants covering plats within floodplain areas for the purpose of insuring that the areas will be left essentially in the state shown on the plat.

Section 54-33. Review.

The preliminary plat submission shall be reviewed by the planning commission to determine its conformity to all regulations which affect subdivisions. Copies of the preliminary plat will be transmitted by the city planner, to the director of public works, the park and recreation director, and other appropriate officials for their recommendations concerning matters within their jurisdiction.

Section 54-34. Approval.

- (a) *Planning Commission approval.* The Planning Commission shall conduct a public hearing according to the procedure set forth in Chapter 74 on the proposed plat at which interested persons shall be given an opportunity to be heard. The planning commission shall recommend approval, disapproval or approval of the plat with specified modifications to the City Council.
- (b) *City Council action.* The City Council will take action on the preliminary plat within 120 days of the date of filing the application with the City Planner. If the recommendation from the Planning Commission has not been received within the 120-day period, the City Council may act without such recommendation. The City Council may require such revisions in the preliminary plat as it deems necessary for the health, safety and general welfare of the City. Approval of a preliminary plat shall not constitute final approval. Approval of the preliminary plat by the City Council shall give the applicant the following rights for a 12-month period from the date of approval:
 - (1) That the general terms and conditions under which the approval was granted will not be changed by the City;
 - (2) That the applicant may submit on or before such expiration date, the whole or any part of the approved plat for final approval; and
 - (3) The City Council may extend the time period of preliminary approval, upon written application by the developer and for good cause shown. Such extension shall not exceed a 12-month period.

Section. 54-35--54-50. Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE II. Plats

Division 2. Final Plats

Section 54-51. Submission.

- (a) After approval of the preliminary plat, the subdivider may, within 12 months, submit to the City Planner the final plat of the subdivision incorporating all modifications required in the preliminary plat.
- (b) If requested by the subdivider, the City Council may extend the time limit on an annual basis.
- (c) The final plat may constitute the entire area covered by the preliminary plat or only that portion which the subdivider proposes to record, provided that the public improvements to be constructed in the area covered by the plat are sufficient to provide for the health, safety, and convenience of the future residents and for access to contiguous areas.

State law reference--Effect of approval of preliminary plat, Minn. Stats. § 462.358, subd. 3c.

Section 54-52. Filing a final plat.

- (a) Application for final plat approval must be made to the City Planner at least two weeks prior to the appropriate meeting of the City Council.
- (b) At the same time that the application for final plat approval is made with the City Planner, a final drawing must be presented.
- (c) Five black-on-white or other acceptable reproductions and an 8½-inch by 11-inch reduction must accompany the original drawing.
- (d) The final plat shall be prepared in accordance with the requirements of Minn. Stats. Ch. 505 and signed by the owners, mortgagees and surveyor. The subdivider must furnish an opinion from an attorney-at-law showing that the fee title is in the name of the owner as shown on the plat or the subdivider shall furnish evidence of a title insurance policy indicating the such ownership.

Section 54-53. Review and recommendation.

- (a) The City Planner will transmit a copy of the final plat to the Director of Public Works for his recommendation. Other copies of the plat will be retained by the Planning Department for public inspection.
- (b) The report of the Director of Public Works will be submitted to the City Planner. The Director of Public Works will state whether the final plat and proposed or constructed improvements conform to the City's engineering standards as established in this chapter. The Director of Public Works shall also establish the required payment for City administrative and engineering costs and the amount of escrow funds required for installation of site improvements and shall establish any other engineering requirements.
- (c) The City Planner will verify that the final plat is in significant agreement with the preliminary plat and that it meets all ordinances and regulations of the City.

Section 54-54. Disposition of final plat by city council.

- (a) If the plat meets engineering and Planning Department requirements, it will be submitted to the City Council for approval or disapproval.

- (b) The City Planner will notify the owner and subdivider in writing of the Council's decision.

Section 54-55. Recording final plat.

If the City Council approves the final plat, the owner will record the plat within 30 days in accordance with Minn. Stats. Ch. 505 with the County Recorder or register of titles, as the case may be, and return a fully recorded, reproducible Mylar copy to the Director of Public Works. In addition, either a Mylar copy at a scale of 200 feet to the inch or an electronic plat file must be submitted to the Director of Public Works.

Section 54-56. Final plat contents.

The final plat must contain the following:

- (1) All information, except topographic data, water and sewer locations, required on the preliminary plat shall be accurately shown.
- (2) The plat shall be at a scale of not less than one inch equals 200 feet.
- (3) Municipal, township, county or section lines accurately tied to the lines of the subdivision by distance and angles.
- (4) Names of new streets and roadways. A sequence of street naming shall be followed, consistent with the pattern that has been established by usage in the particular area under consideration. All dimensions shall be shown for streets, roadways, etc., and horizontal curve data shall be indicated by central angle, radii and arc length.
- (5) The name of the subdivision shall be lettered in prominent print at the top of the plat, together with the name of the City and County wherein the subdivision lies. The name of the subdivision shall be simple in nature, easy to pronounce and shall not duplicate in exact name any plat of record in the County.
- (6) Form of approval by the City Council as follows:

Approved by the City Council of the City of Anoka, Minnesota this _____ day of _____.

Signed: _____
Mayor

Attest: _____
City Clerk

- (7) Form of approval of the Planning Commission as follows:

Approved by the Planning Commission of the City of Anoka, Minnesota this _____ day of _____.

Signed: _____
Chair

Attest: _____
Secretary

- (8) Form of approval by County authorities as required by their standards.

Secs. 54-57--54-80. Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE III. Design Standards

Division 1. Generally

Section 54-81. General requirements.

- (a) The planning commission in its review of a preliminary plat, will take into consideration the requirements of the community and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and widths of streets, the general drainage situation, lot sizes and arrangement, as well as master plan requirements such as parks, school sites, boulevards and highways, but not limited to these.
- (b) The preliminary plat must cover all of the subdivider's contiguous land, but the final plat may cover only a portion of the preliminary plat; provided, that it is in conformance with an approved preliminary plat and other requirements of this chapter.
- (c) Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
- (d) Subdivisions showing unplatted strips or private streets controlling access to public ways shall not receive approval.
- (e) No land shall be subdivided which is held unsuitable by the planning commission for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of the Floodplain Ordinance of Chapter 74 of this Code, and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. In the general floodplain district, applicants shall provide the information required in Chapter 74 of this Code. The planning commission shall evaluate the subdivision in accordance with procedures established in Chapter 74 of this Code.

Section 54-82. Streets.

- (a) The arrangement, character, extent, width and location of streets shall conform to the master plan, the approved standard street sections and all applicable ordinances and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to runoff of storm water, to public convenience and safety and in their appropriate relation to the proposed uses of the area to be served.
- (b) Street right-of-way widths shall be a continuation of the existing right-of-way width or as shown in the master plan and where not shown therein, shall be not less than as follows:

Major thoroughfare	100 feet
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Collector	80 feet
Minor and marginal access	60 feet
Terminating in cul-de-sac	60 feet
(c)	Street intersections, at both centerline, and property line, insofar as practical shall be at right angles.
(d)	Street jogs with centerline offsets of less than 125 feet shall be avoided.
(e)	A tangent of at least 100 feet long shall be introduced between reverse curves on arterial and collector streets and 50 feet on other streets.
(f)	Where street center lines within a block have a deflection angle of more than ten degrees there shall be a connecting curve with a radius adequate to insure a sight distance of not less than 200 feet for minor and collector streets, and of such greater radii as the planning commission shall determine for special cases.
(g)	Property lines at street intersections shall be rounded with a radius of at least 20 feet or with comparable cut-offs or chords in place of rounded corners, on all street rights-of-way which are less than 60 feet in width.
(h)	Street grades wherever feasible shall not exceed seven percent and in no case shall they be less than three-tenths percent.
(i)	Different connecting street gradients shall be connected with vertical parabolic curves. Minimum length, in feet, of these curves for collector streets shall be 15 times the algebraic difference in the percent of grade of the two adjacent slopes. For minor streets the minimum length shall be 7½ times the algebraic difference in the percent of grade of the two adjacent slopes.
(j)	Minor streets shall be so aligned that their use by through traffic will be discouraged.
(k)	Cul-de-sac streets designed to be so permanently, shall not be longer than 500 feet, measured along the center line from the intersection of origin to end of right-of-way. Each cul-de-sac shall have a terminus of nearly circular shape with a minimum right-of-way diameter of 100 feet and a minimum outside roadway diameter of 80 feet. The property line at the intersection of the turnaround and the straight portion of the street shall be rounded at a radius of not less than 20 feet. Where a street dead ends at the property line of the tract, the developer shall submit a plan for ingress and egress acceptable to the planning commission.
(l)	Half-streets shall be prohibited, except where essential to the reasonable development of the subdivision or the completion of the existing half-street in conformity with other requirements of these regulations and where the planning commission finds that it will be practicable to require the dedication of the other half when the adjoining property is subdivided.
(m)	Street names or numbers shall be used and shall not duplicate or be confused with names of existing streets and they shall be subject to approval by the planning commission.

- (n) Alleys, where permitted by the city, shall be at least 20 feet wide in residential areas and at least 24 feet wide in commercial areas. The city may require alleys in commercial areas where adequate off-street loading space is not available. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement. Dead-end alleys shall be avoided, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end.
- (o) All finished street surfaces shall be no more than one foot below the regulatory flood protection elevation.

Cross reference--Streets, sidewalks and other public places, ch. 50.

Section 54-83. Easements.

- (a) Easements at least 14 feet wide, centered on rear or side lot lines, shall be provided for utilities, where necessary. Easements shall have continuity of alignment from block to block and at deflection points, easements for pole-line anchors shall be provided.
- (b) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourses shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area.

Section 54-84. Blocks.

- (a) The maximum length of blocks shall be 1,800 feet. Blocks over 900 feet long may require pedestrian ways at least ten feet wide at their approximate centers. The use of additional access ways, to schools, parks and other destinations may be required.
- (b) Blocks intended for commercial and industrial use must be designed as such, and the block must be of sufficient size to provide for adequate off-street parking, loading and such other facilities as are required to satisfy the requirements of chapter 74.

Section 54-85. Lots.

- (a) The minimum lot size and dimensions in subdivisions designed for the R-1 residence zone shall be:
 - (1) Width, 75 feet at the established building setback line and 60 feet at the front lot line.
 - (2) Width of 75 feet at the established building setback line and 50 feet at the property line of cul-de-sac.
 - (3) Depth, 120 feet.
 - (4) Area, 10,000 square feet.

- (b) Lots intended for commercial, industrial or any other than R-1 single-family residential use, shall be designed as such, and the lot shall be of adequate size to allow off-street parking, loading areas and such other facilities as are required by Chapter 74.
- (c) Corner lots in residence zones shall have at least ten feet extra width and sufficient depth for established building setback on both streets.
- (d) All lots must have at least the minimum required frontage on a public dedicated street.
- (e) All lots must have a minimum of 30 feet in width at the rear lot line.
- (f) Side lot lines shall be substantially at right angles or radial to the street line.
- (g) Double-frontage or lots with frontage on two parallel streets shall not be permitted except:
 - (1) Where lots back on an arterial street in which case vehicular and pedestrian access between the lots and arterial street shall be prohibited. Such double-frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.
 - (2) Where topographic or other conditions render subdividing otherwise unreasonable, such double-frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.
- (h) Lots abutting on a watercourse, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding.

Sections. 54-86--54-100. Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE III. **Design Standards**

Division 2. **Public Sites and Open Spaces**

***State law reference--Authority to required dedication, Minn. Stats. § 462.358, subd. 2b.**

Section 54-101. Application of division.

The requirements of this division shall apply at the time of the final approval of the plat, replat, subdivision or waiver of platting. The provisions of section 54-113 and shall apply to any plat, replat, subdivision, waiver of platting, or development receiving final approval after August 24, 1980.

Section 54-102. Park and Recreation Director review.

The director of planning shall transmit a copy of all preliminary plats involving land to be dedicated for parks to the park and recreation director, who shall report back to the director of planning within 15 days on the appropriateness of any proposed park dedication.

Section 54-103. Dedication required.

In every plat, replat, or subdivision of land allowing development for residential land uses, or where a waiver of platting is granted (but excluding simple lot line adjustments which do not create additional lots), and at the sole determination by the City, applicants and/or developers shall dedicate land for parks, playgrounds, public open spaces or trails and/or shall make a cash contribution to the City's Park Dedication Fund roughly related to the anticipated effect of the subdivision on the park and trail system. The amounts listed in this section or established in the Anoka Master Fee Schedule Ordinance are the City's best estimate of the dedication or cash contribution needed to offset the effect of the subdivision on the park and trail system. The requirement may also be met with a combination of land and cash, if approved by the City Council.

Section 54-104. Land Dedication.

(a) The amount of land required to be dedicated by a developer shall be based upon the gross area of the subdivision or development, which could be developed for residential, commercial, or industrial purposes and shall be determined as follows:

(1) *Residential development.*

Dwelling Unit/Acre	Land to be Dedicated
0--1	5%
2--3	10%
4--5	12%

6--7 14%

8--12 16%

13--16 18%

For each unit over 16/acre, add 0.5%

Provided that if a lot, which is a platted lot as of August 1, 1986, is split into two lots, the land to be dedicated shall be five percent (5%).

(2) Commercial and industrial subdivisions shall be exempt from Park Land Dedication.

(b) In establishing a reasonable portion to be dedicated, the City may give credit for open space, park, recreational or common areas and facilities reserved for the subdivision.

(c) Land shall be suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of the park land will include tree cover, topography, access, location, and future park needs pursuant to the Comprehensive Plan. Wetlands, ponding areas, and drainage ways shall not be eligible for park dedication credit. Park land to be dedicated shall be above the ordinary high water level. Grades exceeding twelve percent (12%) or areas unsuitable for park development will not be considered for dedication unless specifically accepted by the City Council for an intended public purpose. Land with trash, junk, pollutants and/or unwanted structures is not acceptable.

Section 54-105.

Conformance with comprehensive plan.

Land dedicated under this provision shall reasonably conform to the City's Comprehensive Plan. The Planning Commission and Park Board shall review proposed dedication of land or proposed payment of cash in lieu of land and shall recommend to the City Council appropriate action. If the Comprehensive Plan of the parcel of land to be divided shows public property in excess of that required in subsection 54-104(a) the Planning Commission, Park Board and City Council shall, before they approve or disapprove the plat, consider the Comprehensive Plan and determine whether to take the necessary steps to acquire, by purchase or condemnation, all or part of the public property as shown on the Comprehensive Plan.

Section 54-106.

Cash contributions in lieu of accepting dedication of land.

The City shall have the option to require cash contributions in lieu of accepting dedication of land or the City may require a combination of land dedication and cash payment. The cash contribution shall be an amount adopted in the Anoka Master Fee Schedule Ordinance reflecting roughly proportional effect that the new subdivision will have on the City parks, playgrounds, open space and trail system and the estimated fair market value of the property at the time of the final plat. The estimate of fair mark value shall include value added to the property by utilities, streets, and other public improvements serving the land but shall exclude value added by all other improvements to the land.

Section 54-107.

Cash payments in special fund.

Contributions of cash payments in lieu of land dedication shall be placed in a special fund which shall be held and used by the City to acquire land for, or to improve, parks, playgrounds, trails, public open space, or storm water holding areas or ponds.

Section 54-108.

When cash shall be required.

The City shall require a cash payment in lieu of park dedication whenever the proposed dedication of land for public use is not needed, is not suitable for the intended use, is too small for practical maintenance, or whenever cash payment would be more beneficial to the development of the overall park system than dedication of land within the property to be developed.

Section 54-109.

Less dedication.

If the City accepts park dedication in an amount less than that specified in subsection 54-104(a), the subdivider or developer shall pay in addition a fraction of the park dedication fee otherwise payable, the numerator of which is the difference between the percentage of land dedicated and the percentage of land required to be dedicated, and the denominator of which is the percentage of land to be dedicated.

Section 54-110.

More dedication.

If the City requires park dedication in excess of the amount required by subsection 54-104(a), the City shall pay to the subdivider or developer the fair market value of the land in excess of the percentage of land required to be dedicated.

Section 54-111.

Credit for private open space.

Where a private open space for park or recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, a credit of up to 25 percent (25%) of the requirements of subsection 54-104(a) may be given, provided that the following conditions are met:

- (a) That such land area is not occupied by non-recreational buildings and is available for the use of all the residents of the proposed subdivision.
- (b) That required setbacks shall not be included in the computation of such private open space.
- (c) That the use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of the property within the tract and which cannot be defeated or eliminated without the consent of the City Council.
- (d) That the proposed private open space is of a size, shape, location, topography, and usability for park and recreational purposes or contains unique national features that are important to be preserved.
- (e) That the proposed private open space reduces the demand for public recreational facilities to serve the development.

Section 54-112.

Dedication appeal.

If the applicant or developer does not believe that the park dedication required by this ordinance fairly and accurately represents the effect of the subdivision on the park or trail

system of the City, the applicant or developer may request that the City prepare an in-depth study of the effect of the subdivision on the park and trail system and an estimate of that effect in money and/or land. The applicant may provide evidence and information in support of their claims to be included or considered in conjunction with the study. All costs of said study shall be borne by the developer or applicant.

Upon receipt of the study and support information, the City Council shall make a determination as to whether an adjustment in the park dedication is warranted.

The City shall approve or disapprove a preliminary plat application within one hundred-twenty (120) days following delivery of a completed application in compliance with City ordinances. In the event a dedication study as set forth herein is required, the applicant may be requested to extend the deadline for plat approval for a period not to exceed sixty (60) days, in order to conduct, receive and review the study.

If cash in lieu of land dedication is being required, the developer or applicant may deposit the required cash dedication in an escrow and request preparation of the study. The application may then proceed as if the fee has been paid.

Sections 54-113--54-140. Reserved.

CHAPTER 54. SUBDIVISIONS

ARTICLE IV. Basic Improvements

Section 54-141. **Generally.**

- (a) Before a final plat is approved by the city council, the owner and subdivider of the land covered by the plat shall execute and submit to the city council an agreement, which shall be binding on his heirs, personal representatives and assigns, that he will cause no private construction to be made on the plat or file or cause to be filed any application for building permits for such construction until all improvements required under this chapter have been made or arranged for in the manner following as respects the streets to which the lots sought to be constructed have access.
- (b) Prior to the making of such required improvements, the owner or subdivider shall deposit with the city clerk an amount equal to the city engineer's estimated cost of such improvements, either in cash or an indemnity bond, with sureties satisfactory to the city, conditioned upon the payment of all construction costs incurred by the city in making of such improvements and all expense incurred by the city for engineering and legal fees and other expense in connection with the making of such improvements.
- (c) No final plat shall be approved by the city council without first receiving a report from the city engineer certifying that the improvements described in this article, together with the agreements and documents required in this article, meet the minimum requirements of all applicable ordinances. As-built drawings of all improvements shall be filed with the city engineer. Such as-built drawings shall show the date of construction and shall be drawn in such a manner and on such materials to meet the standards of the city available in the city engineer's office. As-built drawings must be completed and filed in the city engineer's office within 60 days of the completion of such improvement. If as-built drawings are not filed within the time period specified the city engineer may be authorized to conduct surveys and complete the drawings and all of the costs pursuant thereto shall be paid by the owner.

Section 54-142. **Street grading.**

The full width of the street right-of-way shall be graded and paid for by the developer, including the stabilized gravel base of the areas to be paved, in accordance with standards for street construction approved by the city. No prepared street shall be approved if its surface is more than two feet below the regulatory flood protection elevation. The city planning commission and city council may require, where necessary, profiles and elevations of finished streets for areas subject to flooding. Fill may be used for streets provided such fill does not unduly increase flood heights. Drainage openings shall not restrict the flow of water so as to unduly increase flood heights.

Section 54-143. **Street improvements.**

- (a) Petitions for sidewalks, if required, pavement, curb and gutter covering all streets in the subdivision shall be filed, or, if these improvements are to be installed by the owner or subdivider under contract, a cash deposit or bond covering the cost, as estimated by the city engineer shall be made in accordance with section 54-141.

- (b) A certified copy of the plat restrictions which shall include a provision that, in all instruments of sale or conveyance given before all street improvements have been made, the consignee shall agree to and approve such improvements, and the assessment of their cost.

Cross reference--Streets, sidewalks and other public places, ch. 50.

Section 54-144.

Street trees.

Street trees shall be planted in conformance with a platting plan and standards approved by the city.

Cross reference--Vegetation, ch. 70.

Section 54-145.

Street signs.

Street signs of standard design approved by the city shall be installed at each street intersection.

Section 54-146.

Sidewalks.

A sidewalk six feet in width shall be installed within the street right-of-way in front of each lot fronting on a public street within areas platted after the effective date of the ordinance from which this section is derived before any lot constituting a part of such plat shall be conveyed.

Section 54-147.

Driveways.

A concrete or asphalt driveway at least ten feet wide shall be installed on lots in areas platted after the effective date of this provision. The driveway shall run from the near edge of the roadway into the lot for a distance of at least 25 feet from the front lot line. No lot constituting a part of areas platted after the effective date of this provision and upon which a dwelling has been erected shall be conveyed unless such driveway has been installed.

Section 54-148.

Sewers.

- (a) Sanitary sewers shall be installed to serve all properties in the subdivision where a connection to the city sewer system is available at or reasonably near the boundary of the subdivision.
- (b) Storm drainage facilities, where required, shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from building and onsite waste disposal sites. The city planning commission and city council may require a primary underground system to accommodate frequent floods and a secondary surface system to accommodate less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to protect against surface erosion and siltation of surface waters and to prevent the discharge of excess runoff onto adjacent properties.

- (c) If the subdivision requires additional trunk sewers they may, if approved by the city council, be installed under contract by the city after petition for such additional trunk sewers by the owner. The cost shall be assessed against all lots in the subdivision over a period of not to exceed ten years.
- (d) If approved by the city council, both storm and sanitary sewers may be installed under contract by the city after petition for the storm and sanitary sewers by the owner. The cost shall be assessed against all lots in the subdivision over a period of not to exceed ten years.
- (e) All sewer construction must conform to the standards of the city for such work.
- (f) The city planning commission and city council may prescribe adequate methods for waste disposal. If a sanitary sewer system is located on or near the proposed subdivision, the city planning commission and city council shall require the subdivider to provide sewage facilities and to connect to this system where practical, and shall prescribe the procedures to be followed by the subdivider in connecting to the system. The city planning commission and city council may prohibit installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high ground water, flooding, or unsuitable soil characteristics. The city planning commission and city council may require that the subdivider clearly indicate on the face of the plat and in any deed of conveyance the areas in which soil absorption systems are not to be used. If the subdivision is not to be served by the public city sewer system, private restrictions shall be filed with the final plat and incorporated in each deed, calling for the installation on each lot of an individual sewage disposal system meeting fully the requirements of the city, county, or state officials having jurisdiction.

Cross reference--Utilities, ch. 66.

Section 54-149.

Water supply.

- (a) Where a connection to the city water system is presently available at or reasonably near the boundary of the subdivision, water distribution facilities, including fire hydrants, shall be installed to serve all properties within the subdivision. Water mains shall be a minimum of six inches in diameter and shall meet all city standards therefore. All water systems located in flood prone areas, whether public or private, shall be flood proofed to a point at or above the regulatory flood protection elevation. If there is an existing public water supply system on or near the subdivision, the city planning commission and city council shall require the subdivider to connect to this system, where practical, and prescribe the procedures to be followed.
- (b) If approved by the city council, water mains may be installed under contract by the city after petition for the water mains by the owner. The cost shall be assessed against all lots in the subdivision over a period of not to exceed ten years.

Cross reference--Utilities, ch. 66.

Section 54-150.

Building site improvements.

No subdivision shall be approved for floodway areas if anticipated levees, fills, structures or other features will individually or collectively increase flood flows or damages. The city council shall reasonably assume an equal degree of encroachment on the opposite side of the watercourse in calculating possible effects of the proposed uses.

- (1) Building sites for residences, motels, resorts and similar uses for human occupancy shall not be permitted in floodway areas. These uses may be permitted outside the floodway if building sites are filled to an elevation not lower than one foot below the regulatory flood protection elevation for the particular area. Required fill areas must extend 15 feet beyond the limits of intended structures and, if the subdivision is not to be sewered, must include areas for onsite waste disposal.
- (2) Building sites for structures other than those used for human occupancy outside of floodway areas shall ordinarily be filled as provided in subsection (1) of this section. However, the city council may allow subdivision of areas for commercial and industrial use at a lower elevation as the subdivider protects the areas to the regulatory flood protection elevation by levees, floodwalls, channel modifications, or other protective techniques; or if the subdivider agrees to protect uses through structural flood proofing, flood warning systems or other techniques.
- (3) Should the city council determine that only part of a proposed plat can be safely developed, it shall limit development to that part and require that the specifications for development be consistent with its determination.
- (4) When the subdivider does not intend to develop the plat himself, and the city council determines that additional use controls are required to insure safe development, it may require the subdivider to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on the face of the final recorded plat.

Section 54-151.

Warning signs.

The limits of the areas which have been or would be inundated by the regional flood or by experienced floods of greater magnitude shall be delineated at 1,000 feet intervals by means of firmly placed markers of sufficient size to be easily read from a distance of 20 feet. The markers shall record the maximum known level of flooding or regional flood protection elevation, whichever is greater. The city council shall prescribe the size, shape, lettering and installation instructions for floodplain markers. The cost of preparing and installing such markers shall be borne by the subdivider and the markers shall be installed prior to the sale of lots and construction of any buildings or structures.

CHAPTER 58. TAXATION

ARTICLE II. Lodging Tax*

*State law reference--Lodging tax, Minn. Stats. § 469.190.

Section 58-31. Purpose.

There is hereby created a tax upon lodging at hotels, motels, rooming houses, tourist courts or resorts. The purpose of the tax is to provide funding for a convention and visitors bureau to promote tourism and conventions.

Section 58-32. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them:

City Finance Director means the individual designated by the City Manager to fulfill the duties of City Treasurer as specified in the City Charter.

Hotel means the furnishing for consideration, of lodging by a hotel, tourist court, or motel, and the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more. The furnishing of rooms by any legally constituted religious, educational or nonprofit organization shall not constitute lodging for the purposes of this article.

Operator means the person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, licensee, or any officer, agent or employee of such person, is an operator.

Cross reference--Definitions generally, § 1-2.

Section 58-33. Imposition of tax.

The following tax, as authorized by Minn. Stats. § 469.190, shall apply in the city:

- (a) For the privilege of occupation of any hotel, each person shall pay a tax in the amount of three percent of the charge made by the operator.
- (b) Those persons qualifying under subsection (1) of this section shall pay the tax to the operator of the hotel at the time the charge is paid. Such tax constitutes a debt owed to the city by the operator and is extinguished only by payment to the city.

Section 58-34. Collections.

- (a) *Operator's duties.* Each operator shall collect the tax imposed by this article at the time the rent is paid. The amount of tax shall be separately stated from the rent charged. Those persons paying the tax shall receive a receipt of payment from the operator.

- (b) *Reports.* Each operator collecting such tax shall make a report to the City by submitting to the City Finance Director signed copies of the sales tax reporting forms required by the State Department of Revenue. The Finance Director may require such additional information from the operator to verify the amount of the tax to be paid is correct. Such reports shall contain, at minimum:
- (1) The amount of room rentals collected.
 - (2) The amount of tax required to be collected and due for the period.
 - (3) The signature of the operator or that of the agent if the operator has not made the report.
 - (4) The period the return covers.
 - (5) The amount of room rental uncollectible.
 - (6) Such additional information as the City Council in its discretion, from time to time requires.
- (c) *Payment to the City.* Payment of the tax shall be submitted by the operator to the City along with the required reports. Payment shall cover the tax due for the preceding calendar month, or any alternative four-week accounting period, whichever it shall be, and such payment shall be made no later than 25 days after the end of such calendar or alternative accounting month.
- (d) *Uncollectible charges.* The operator may offset against the tax due with respect to any reporting period the amount of taxes imposed by section 58-37 previously paid as a result of any transaction which becomes uncollectible during such reporting period, but only in proportion to the portion of such amount which becomes uncollectible.
- (e) *Examination of return.* After a return is filed, the city finance director may make any examination of the records and accounts of the person making the return which he deems necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid such excess shall be paid within ten days after receipt of such notice. Such notice shall be given either personally or sent by registered mail to the address listed on the return. If the tax paid is greater than the tax found to be due, the excess paid shall be refunded to the operator at the address listed on the return.

Section 58-35.

Refunds.

- (a) Any operator may file for a refund for taxes paid in excess of the amount actually due for that period, provided that no such claim shall be entertained unless filed within one year after such tax paid.
- (b) Upon application, the City Finance Director shall determine the correctness of the claim and return any excess paid. If no excess is found, the City shall so inform the operator. The operator may make written application for city council hearing within five days after receipt of notice that the claim has been denied. The operator shall be informed at least five days in advance of the scheduled Council hearing.

Section 58-36.

Penalties for late payment.

Any operator failing to make payment within the 25-day period specified in subsection 58-34(c) shall be required to pay a penalty of ten percent. If the delinquency continues beyond 30 days after the tax is due as specified in subsection 58-34(c), such delinquent taxes, plus penalty, as heretofore provided, shall be entered, shown and placed on the tax assessment rolls of the city for the hotel, generating the delinquency, or the city attorney may commence such action necessary to collect the tax and penalties due including all costs of collection including, but not limited to attorney's fees.

Section 58-37.

Tax determined by the City Council.

- (a) If the operator refuses to collect the tax imposed or fails to make the required report, the City Finance Director shall obtain facts and information and make an estimate of the amount of tax due and shall give the operator a statement of the tax due to his estimate and give notice personally or through registered mail to such operator of the amount due. Depending upon the time periods as specified in section 58-33, the amount of tax estimated shall include the applicable penalties and interest. Payments shall be made within ten days after receipt of the notice. For the purpose of carrying out the provisions of this section, the city finance director shall have the right of access to the books and records of the operator.
- (b) The operator shall have ten days after receipt of notice to make a written application for a hearing on the amount estimated to the City Finance Director. If no request is made during this ten-day period, the amount specified in the statement of the City Finance Director, including penalties, becomes final and payable within ten days.
- (c) If a hearing is properly requested, the running of the time periods described in section 58-36 is automatically stayed. Notice of the hearing shall be given to the operator at least ten days in advance. All hearings are to be held before the City Council. The Council may determine the amount due, when it shall be paid, and whether or not the penalty time period under section 58-36 still resume running until payment. Once the amount due becomes fixed under either subsection (a), (b), or (c) of this section, any further steps necessary to ensure collection as described in subsection 58-36 may be taken for the collection of deficiencies.

Section 58-38.

Administration.

The City Finance Director shall be charged with the responsibility for enforcement and administration of this article.

Cross reference--Administration, ch. 2.

Section 58-39.

Violations.

Any willful violations of any provision of this article or tendering a false report required pursuant to this article shall be a misdemeanor.

Section 58-40.

Deposit in special purpose fund.

All revenues collected by the City pursuant to this article shall be deposited in a special purpose fund hereby established to be known at the hotel/motel tax fund.

Section 58-41.

Distribution.

Distribution of all revenues relating to three percent of the charge made by the operator and collected pursuant to this article shall be used for the purpose of the advancement of the City as a tourist and convention center. The City may retain a sum not to exceed five percent of the gross proceeds from the tax authorized in section 58-33.

CHAPTER 62. TRAFFIC AND VEHICLES

ARTICLE I. **In General**

Section 62-1.

Vehicle noise and nuisance.

No owner, driver, or operator of a motor vehicle if the owner is not present, shall operate or permit the use or operation of any vehicle radio, stereo, compact disc player, receiver, tape deck, loud speaker, sound amplifier, or any similar device used for the production of sound in any public or private place in such a manner or at such a noise level which is audible from a distance of 25 feet from the source, knowing or having reasonable grounds to know that it will alarm, anger, or disturb others or otherwise affect the peace and quiet of any person who may witness or hear it. A violation of this section shall be a petty misdemeanor.

Cross reference--Nuisances, § 30-31 et seq.

Section 62-2.

Riding in pick-up trucks.

No person shall ride, nor shall the driver of a pick-up truck allow a person to ride, in the open box of a pick-up truck on any street designated as a "No Cruising Zone" between the hours of 9:00 p.m. and 2:00 a.m.

Secs. 62-3--62-30.

Reserved.

CHAPTER 62; TRAFFIC AND VEHICLES

ARTICLE II. Administration and Enforcement.

***Cross reference--**Administration, ch. 2.

Section 62-31. **Through streets.**

The Chief of Police may designate any street as a through street and any intersection as a stop intersection where necessary to preserve the free flow of traffic and to prevent accidents; and he shall post appropriate signs at the entrance to such streets or intersections; but no trunk highway shall be designated as a through street and no intersection on a trunk highway shall be designated as a stop intersection unless the consent of the state commissioner of highways to such designation is first secured.

Cross reference--Streets, sidewalks and other public places, ch. 50.

State law references--Authority to designate through highway preserved, Minn. Stats. § 169.04(5); stops when entering through highway, Minn. Stats. § 169.20, subd. 3.

Section 62-32. **Seasonal weight restrictions.**

The City Engineer may prohibit the operation of vehicles upon any street under his jurisdiction or impose weight restrictions on vehicles to be operated on such street whenever the street, by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles on the street is prohibited or the permissible weights thereof reduced. He shall erect and maintain signs plainly indicating the prohibition or restriction at each end of that portion of the street affected. No person shall operate a vehicle on a posted street in violation of the prohibition or restriction.

State law reference--Seasonal load restrictions authorized, Minn. Stats. §169.87, subd. 1.

Section 62-33. **Prohibiting turns at intersections.**

The Chief of Police may, whenever necessary to preserve the free flow of traffic or prevent accidents prohibit turns at intersections and shall cause such intersections to be marked with appropriate signs. No trunk highway shall be so designated without the consent of the state department of transportation.

Section 62-34. **Regulation of parking.**

The Chief of Police shall have the authority to regulate times and places of parking and limit the types of vehicles that may park in designated areas and erect signs wherever necessary for the convenience of the public or to minimize traffic hazards and to preserve the free flow of traffic on a temporary or permanent basis.

State law references--Authority to regulate parking or standing or vehicles preserved, Minn. Stats. § 169.04(1); stopping, standing and parking, Minn. Stats. § 169.32 et seq.

Section 62-35. **Parking permits; fees.**

The City Council shall, by resolution, establish the number of parking permits to be issued by the City for parking in any City-owned parking lot and shall establish the fee for such permits.

Section 62-36. Erection of signs prohibiting riding of bicycles on sidewalks or roadways.

When necessary to preserve public safety, the Chief of Police is authorized to erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person.

Secs. 62-37--62-60. Reserved.

CHAPTER 62; TRAFFIC AND VEHICLES

ARTICLE III.

Vehicle Operation

Section 62-61.

Truck restrictions.

The City Council may by resolution designate streets on which travel by commercial vehicles in excess of 10,000 pounds gross weight is prohibited. The City Engineer shall erect appropriate signs on such streets. No person shall operate a commercial vehicle on such posted streets in violation of the restrictions stated, unless necessary for the pick up or delivery of property to homes or businesses on such posted streets, in which event the vehicle shall be driven over the shortest possible route on the posted street.

State law reference--Truck routes authorized, Minn. Stats. § 169.87, subd. 1.

Section 62-62.

Unnecessary acceleration.

No person shall start or accelerate any motor vehicle with an unnecessary exhibition of speed on any public or private way or public or private parking lot within the city limits. Prima facie evidence of such unnecessary exhibition of speed shall be unreasonable squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires of such vehicle or both.

Section 62-63.

Regulation of traffic on the Rum River footbridge.

No motorized vehicles of any kind shall be allowed on the Rum River Footbridge south of the Main Street Bridge, except for motorized wheel chairs. No non-motorized vehicles of any kind, except for wheel chairs, shall be used on the Rum River Footbridge including bicycles, tricycles, roller skates, skateboards, wagons, or any other wheeled vehicle which may cause a hazard to pedestrian traffic. Wheeled vehicles, however, may be pushed or carried by a pedestrian across the bridge if pushed or carried in a manner which does not interfere with pedestrian traffic. A violation of this section shall be a petty misdemeanor.

Section 62-64.

Regulation of traffic on the pedestrian underpass of the Main Street Bridge.

No motorized vehicles of any kind shall be allowed on the pedestrian underpass of the Main Street Bridge across the Rum River, except for motorized wheelchairs. No non-motorized vehicles of any kind, except for wheelchairs, shall be used on the pedestrian underpass of the Main Street Bridge, including bicycles, tricycles, roller skates, skate boards, wagons, or any other wheeled or nonwheeled vehicle which may cause a hazard to pedestrian traffic. A violation of this section shall be a petty misdemeanor.

Section 62-65.

Cruising.

- (a) *Purpose.* The objectives of this section are to reduce traffic congestion, eliminate safety hazards, provide for the clear passage of emergency vehicles, and reduce criminal activity that accompanies cruising.
- (b) *Definitions.* As used in this section the following words and terms shall have the meanings respectively ascribed:

Cruising means the operation of a motor vehicle as defined in Minn. Stats. § 169.01, subd. 3, past a traffic control point on a street in the designated "No Cruising Zone" four or more times between the hours of 9:00 p.m. and 2:00 a.m.

in a manner and under circumstances manifesting a "purpose" of unnecessary, repetitive driving in the area.

No cruising zone means East Main Street and West Main Street in the City.

Traffic control point means a point on a street in a "No Cruising Zone" selected by a police officer and noticed by a posted sign.

- (c) *Cruising prohibited.* No person shall operate or permit a motor vehicle under his care, custody or control, to be operated in such a manner so as to constitute cruising.
- (d) *Penalties.* A violation of this section shall constitute a petty misdemeanor. When preceded by two or more petty misdemeanor convictions of this section or two or more convictions of any of the provisions of Minn. Stats. ch. 169 or 171, or any combination thereof, within the immediate preceding 12-month period, a violation shall constitute a misdemeanor. The circumstances which may be considered in determining whether such purpose is manifested include, but are not limited to, that the operator or any passenger in the vehicle attempts to gain the attention of other motorists or pedestrians or engages them in conversation, whether by hailing, arm waiving, horn blowing, excessively loud music or vibrations, or another action or device; that the operator or any passenger present in the vehicle enters or exits the vehicle directly from or to another vehicle driven in or parked in close proximity to the "No Cruising Zone"; that the operator or passenger in the vehicle violates state or municipal traffic regulations or municipal ordinances; or that such person has declared his purpose for driving to be that of cruising. No citation shall be issued for a violation of this section unless the arresting officer first provides the suspect with an opportunity to explain such conduct; and no person shall be convicted of violating this section if it is decided at trial that the explanation given disclosed a lawful purpose, and was not unnecessary repetitive driving. Lawful purposes include, but are not limited to, taxicabs for hire, buses, authorized emergency vehicles, vehicles used under contract with the city, vehicles traveling to a specific destination by a person whose residence address is in the designated area, or by a person whose business or employment requires driving in the designated area.

Section 62-66.

Regulation of non-motorized traffic in city parking ramps.

No non-motorized vehicles of any kind, except for wheelchairs, shall be used in any city-owned or operated parking ramps in the city, including bicycles, tricycles, wagons or any other wheeled vehicle which may create a hazard to pedestrian or vehicular traffic. A violation of this section shall be a petty misdemeanor.

Section 62-67.

Snowmobile operation prohibited.

- (a) *Definitions.* As used in this section the following words and terms shall have the meanings respectively ascribed:

Operate means to ride in or on and control the operation of a snowmobile.

Snowmobile means a self-propelled vehicle designed for travel on snow or ice which is steered by skis or runners.

- (b) *Snowmobile operation prohibited.* No person shall operate a snowmobile within the City limits.

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(c) *Exceptions:*

1. A snowmobile may be operated on private property with the permission of the property owner for maintenance purposes and to load or unload the snowmobile for transportation purposes.
2. A snowmobile may be operated in an emergency during the period of time when and at locations where snow upon the roadway renders travel by automobile impractical.
3. A snowmobile may be operated on the Rum River and within designated areas within the City in a manner that is consistent with MN Rules 6100.5200 subp. 4.

(d) *Towing.* The Anoka Police Department may tow any snowmobile operated in violation of this section.

(e) *Penalty.* Violation of this section shall be a petty misdemeanor.

State law references--Snowmobiles generally, Minn. Stats. § 84.81 et seq.; local regulation of snowmobiles, Minn. Stats. § 84.87, subd. 3.

Secs. 62-68--62-90.

Reserved.

CHAPTER 62. TRAFFIC AND VEHICLES

ARTICLE IV. **Stopping, Standing and Parking***

***Cross reference**--Off-street parking and loading, § 74-506 et seq.

State law references--Authority to regulate parking or standing of vehicles preserved, Minn. Stats. § 169.04(1); stopping and parking, Minn. Stats. § 169.32 et seq.

Section 62-91. Marking of spaces; parking within spaces.

Every vehicle parked within the City in a parking stall, lot or area delineated with lines or markings painted upon the curb or roadway surfaces shall be parked within the lines or markings. It shall be unlawful to park any such vehicle across any such line or marking, or to park a vehicle in such a position that it shall be not entirely within the space designated by such lines or markings. Where such lines or markings indicate parking other than parallel to the curb, all vehicles shall park with the front of the vehicle closest to the curb.

Section 62-92. Obliterating marks.

It shall be unlawful for any person to remove, erase or otherwise obliterate any mark or sign placed upon a tire or other part of a vehicle by a police officer for the purpose of measuring the length of time such vehicle has been parked in a parking spot while a vehicle is parked in any limited time zone.

Section 62-93. Shifting of parked vehicles.

For the purpose of regulations relating to limited time parking zones, any vehicle moved less than 200 feet in a limited time parking zone shall be deemed to have remained stationary.

Section 62-94. Parking in stall designated for permit parking only.

Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, no person shall stop, stand or park a vehicle in any parking stall designated for permit parking only located in a parking lot owned or operated by the city without a permit issued by the chief of police.

Section 62-95. House trailers.

No person shall for camping purposes, leave or park a house trailer on any street or the right-of-way thereof.

Section 62-96. Parking to display vehicle for sale.

No vehicle shall be parked on any street, City-owned parking lot, or other public property for the purpose of displaying it for sale. No person shall park, nor shall a property owner allow to be parked, more than one vehicle on private property, whether residential, commercial, industrial or other, in the city for the purpose of displaying it for sale. This does not apply to a properly licensed auto sales business located in the city.

Section 62-97.

Time limitations.

No vehicle, except that of a physician on an emergency call or a public utility vehicle on an emergency call shall be parked on any City street or in any public parking lot without an overnight parking permit between 2:00 a.m. and 6:00 a.m.

Section 62-98.

Keys to be removed from vehicle.

- (a) No person shall park a vehicle on a street and leave the vehicle unattended without locking the ignition of the vehicle and removing the ignition key from the vehicle.
- (b) No person shall park a vehicle on a public parking lot and leave the vehicle unattended without locking the ignition of the vehicle and removing the ignition key from the vehicle, unless all the windows of the vehicle are closed, all the doors are locked and the keys are removed from the door locks.

Section 62-99.

Truck loading only zones.

The Chief of Police may establish in each block in the congested districts one or more "Truck Loading Only" zones and shall mark by appropriate signs any zones so established. Such zones shall be located at places most convenient for the use of the public with regard to traffic conditions in the block. No person shall, between the hours of 8:00 a.m. and 6:00 p.m., of any week day, park any vehicle, nor shall the owner of any vehicle allow it to be parked in any such zone except for the purpose of actually receiving or discharging freight or passengers, if such person or owner is regularly engaged in the business of transporting freight or passengers for hire, and then for only a period of no longer than is necessary for the discharge or receipt of such freight or passengers.

Section 62-100.

No parking zones in congested districts.

The Chief of Police may establish "No Truck Parking" zones in the congested districts and shall mark by appropriate signs any zones so established. Such zones shall be established in the congested districts where heavy traffic by commercial vehicles or other traffic congestion makes parking by commercial vehicles a hazard to the safety of the vehicles or pedestrians. No person shall park a commercial vehicle of more than one ton capacity, nor shall the owner of such a vehicle allow the vehicle to be parked, between 8:00 a.m. and 8:00 p.m. on any week day upon any street in any "No Truck Parking" zone, but parking such vehicles for a period of not more than 30 minutes shall be permitted in such zones for the purpose of having access to abutting property when such access cannot conveniently be secured from any alley or from a side street where truck parking is not so restricted.

Section 62-101.

No parking or limited parking in congested districts.

The Chief of Police may designate certain blocks within the congested districts as no parking, 10-minute, 20-minute, 30-minute, one-hour or two-hour limited or three-hour parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established in the congested districts wherever necessary for the convenience of the public or to minimize traffic hazards and to preserve a free flow of traffic. No person shall park any vehicle, nor shall the owner of any vehicle allow it to be parked, in any limited parking zone for a longer period than specified on the signs marking such zones.

Section 62-102

Citation of violators; fines.

- (a) It shall be the duty of the chief of police to keep account of all violations of this chapter. The Chief of Police shall report violations of any provisions of this chapter, the date and hour of such violation, the make and state license number of every vehicle, and any other facts, the knowledge of which are necessary to a thorough understanding of the circumstances attending such violation.
- (b) The Chief of Police or his agents shall attach to any such vehicle a notice stating that it has been parked in violation of this chapter, and instructing the owner or operator to deposit envelope with fine in the courtesy deposit box located in the parking lot of the main entrance to City Hall. Further, the owner or operator of any vehicle to which a violation notice has been attached shall, within five days after the time when such notice was attached to such vehicle, pay the chief of police or other authorized deputy in full satisfaction of such violation an amount of money which shall be set from time to time by the city council. If the fine for such violation is not paid within such five days, the fine then shall be increased to an amount of money which shall be set from time to time by the city council, if paid before a complaint is drafted. If the amount is not paid in full before a complaint is drafted for the violation, the penalty will be that set for a petty misdemeanor and will be determined by the court.
- (c) A person who holds the legal title to a vehicle shall be deemed the owner. In the event a vehicle is the subject of an agreement for the conditional sale or lease thereof, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, then such conditional vendee or lessee shall be deemed the owner. In the event a mortgagor of the vehicle is entitled to possession, then such mortgagor shall be deemed the owner. Pursuant to the power vested in the city under Minn. Stats. § 459.14(6), it is hereby provided that the operation or use of a motor vehicle in violation of this chapter shall be prima facie evidence that such motor vehicle was at the time of such violation, controlled, operated, and used by the owner thereof.
- (d) Violations of any parking regulation defined in this chapter shall constitute petty misdemeanors.

Section 62-103.

Collection and disposition of revenue.

The Chief of Police shall account for all monies collected under this chapter. All monies collected shall then be turned over to the city clerk to be deposited in the general fund.

Secs. 62-104

Towing of Illegally Parked Vehicles.

Any vehicle parked in violation of the City ordinance, in violation of the State Law, or in such a manner so as to interfere with snow removal or use of a public street during an emergency or special event, may be removed by towing at the direction of the Chief of Police, or his/her designee. The owner or other person responsible for such parking of the vehicle shall be liable for the reasonable cost of such towing and storage. The City shall not be liable for any damage to any towed vehicle.

Secs 62-105--62-130.

Reserved.

CHAPTER 62. TRAFFIC AND VEHICLES

ARTICLE V. **Bicycles and Play Vehicles.**

DIVISION 1. **Generally**

Section 62-131. Regulation of roller devices.

- (a) *Purpose.* The purpose of this section is to protect the public health and safety arising out of the use of roller devices, such as skate boards, roller blades, roller skates, in-line skates and roller skis within the city. The council of the city finds that there are certain public streets, ways and property wherein the operation and use of such roller devices create an unnecessary potential danger to either the user of such devices or the general public; and that the use of such devices in an improper manner may cause destruction of property.
- (b) *Definition--Roller device.* As used in this section, the term "roller device" means a non-motorized platform, foot board, ski-like device, shoe, boot or similar object mounted on wheels and designed or intended to propel a rider by human power or force of gravity, including but not limited to, skate boards, roller skates, roller blades, in-line skates and roller-skis. These devices do not include wheel chairs operated for or by a disabled person, wagons or strollers.
- (c) *Prohibition.* It shall be unlawful for any person to operate, ride or use a roller device under the following circumstances:
- (1) In a careless, reckless or negligent manner or in a manner that endangers or is likely to endanger any property or any person, including the user of the roller device; or in such a manner as to indicate either a willful or wanton disregard for the safety of persons or property.
 - (2) In any area within the city while being pushed, pulled or in any way propelled by any motorized vehicle or by a person on a bicycle.
 - (3) On private property without the express permission of the owner or occupant or the property.
 - (4) Upon any city-owned parking lot, ramp or other parking facility.
 - (5) Upon any public street or roadway where the posted speed limit is in excess of 30 miles per hour.
 - (6) Upon any public street, sidewalk or roadway after sunset and before sunrise.
 - (7) On any public street, alley, sidewalk or other public property in the following area: On the east side of the Rum River, commencing at the Rum River, then east on VanBuren Street to Fourth Avenue, then south on Fourth Avenue to Monroe Street, then west on Monroe Street to the Rum River, except for the sidewalk adjacent to the north side of VanBuren Street, the sidewalk adjacent to the south side of Monroe Street, and the sidewalk adjacent to the east side of Fourth Avenue. Unless otherwise specified, the described area includes all sidewalks

adjacent to the streets and all cross streets and adjacent sidewalks on such cross streets.

- (8) In any area to be described in the future, in addition to the areas described in this section, as established by resolution of the city council upon recommendation of the chief of police.
- (d) *Exceptions.* Roller devices may be used by medical, police or other emergency personnel.
- (e) *Penalty.* A violation of this section shall constitute a petty misdemeanor.
- (f) *Impoundment.* Any police officer who observes any violation of this section is authorized to impound the roller device and to hold the roller device at the police department until resolution of the case following a violation. The impounded item shall be released to the parent or legal guardian of a user who is under the age of 18 years, or released to a user 18 years of age or older, following the expiration of the impoundment period.

Secs. 62-132--62-150. Reserved.

CHAPTER 62. TRAFFIC AND VEHICLES

ARTICLE V. **Bicycles and Play Vehicles.**

DIVISION 2. **Bicycles.**

***State law reference--Bicycle operation and equipment, Minn. Stats. § 169.222.**

Section 62-151. **Registration required.**

- (a) All bicycles used or ridden upon any highway, street, alley, sidewalk or other public property within the City of Anoka shall be registered pursuant to Minn. Stats. ch. 168C.
- (b) The finding of any bicycle in any street, alley, highway, boulevard, or public grounds without a current license identification tag, or with a mutilated frame number shall be *prima facie* evidence that the bicycle is being operated on the streets of the city without having been registered. The bicycle shall be immediately impounded and shall only be surrendered to the owner thereof upon proof of ownership satisfactory to the police department, proof of licensing of the bicycle with the state, and payment of an impounding fee as established from time to time by the city council.

Section 62-152. **Number and placement of passengers.**

No person shall ride or propel a bicycle on a street or other public highway of the City with another person on the bicycle, unless the bicycle has been designed with a separate mounted seat for each passenger of the bicycle. No passenger shall ride or be seated ahead of the person who is guiding the bicycle.

Section 62-153. **Speed.**

No bicycle shall be ridden faster than is reasonable and proper, but every bicycle shall be operated with reasonable regard to the safety of the operator and other persons upon the sidewalks, streets and other public highways of the City.

Section 62-154. **Observance of traffic signs.**

Persons riding bicycles shall observe all traffic signs and stop at all stop signs.

Section 62-155. **Riding or parking on sidewalks in business districts.**

No person shall ride a bicycle upon a sidewalk within a business district. Any bicycle left parked upon a sidewalk so as to constitute a hazard to the public shall be removed by the police department. After the bicycle has been properly identified, it may be released to the owner if it has been validly licensed.

Cross references--Businesses, ch. 22; streets, sidewalks and other public places, ch. 50.

Section 62-156. **Observance of traffic rules and regulations.**

Every person riding or propelling a bicycle upon any street or other public highway in the City shall observe all traffic rules and regulations applicable thereto.

Section 62-157.

Yielding to other traffic.

The operator of a bicycle emerging from an alley, driveway or building, shall, upon approaching a sidewalk or the sidewalk area extending across any alley way, yield the right-of-way to all pedestrians approaching on such sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on such roadway.

Secs. 62-158--62-175.

Reserved.

CHAPTER 62. TRAFFIC AND VEHICLES

ARTICLE V. **Bicycles and Play Vehicles.**

DIVISION 3. **Motorized Bicycles.**

***State law reference--**Motorized bicycles, Minn. Stats. § 169.223.

SUBDIVISION I. **In General.**

Section 62-176. **Definitions.**

For the purpose of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Electric-assisted bicycle means a motor vehicle with two or three wheels that:

- (a) Has a saddle and fully operable pedals for human propulsion;
- (b) Meets the requirements of federal motor vehicle safety standards 49 CFR 571.01 et seq.; and
- (c) Has an electric motor that (i) has a power output of not more than 1,000 watts, (ii) is incapable of propelling the vehicle at a speed of more than 20 miles per hour, (iii) is incapable of further increasing the speed of the device when human power alone is used to propel the vehicle at a speed of more than 20 miles per hour, and (iv) disengages or ceases to function when the vehicle's brakes are applied.

State law reference--Similar provisions, Minn. Stats. § 168.01, subd. 4a.

Motorized bicycle means a bicycle that is propelled by a motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged. The term "motorized bicycle" includes an electric-assisted bicycle.

Motorized bicycle business means any business enterprise whereby motor scooters owned by one person are used or leased by another for a consideration.

Motorized bicycle livery means a business of leasing or furnishing motorized bicycles to the public for a consideration.

State law reference--Similar provisions, Minn. Stats. § 168.01, subd. 4b.

Cross reference--Definitions generally, § 1-2.

Section 62-177. **Rules governing lessors generally.**

All licensees under this division shall:

- (a) Verify the signature of the vehicle user in the rental agreement.

- (b) Obtain a written rental agreement from each vehicle user.
- (c) Obtain a written record, permanent and legible, containing the name, address, age and the motor vehicle driver's license.
- (d) Maintain and service all motorized bicycles in accordance with a comprehensive maintenance checklist.
- (e) Post and maintain state, county and city regulations as to speed, carrying passengers and insurance required in this division.
- (f) Instruct all customers in operation of motorized bicycles and determine that lessee is capable of operating motorized bicycles.
- (g) Require that only lessee may operate leased motorized bicycles.

Section 62-178.

Driver's license prerequisite to lease.

No licensee shall let or furnish any motorized bicycle licensed under this division to any person not having his motor vehicle driver's license issued in accordance with the provision of the laws of the state of the residence of the operator.

State law references--Use of motor bicycle by unlicensed person, Minn. Stats. § 168.835; rental to unlicensed person prohibited, Minn. Stats. § 168.834, subd. 1.

Section 62-179.

Operation generally.

No person operating a motorized bicycle on the streets or public thoroughfares of this city under this division shall:

- (a) Permit more than one person on each motorized bicycle.
- (b) Use a motorized bicycle not properly licensed and identified in accordance with this division.

Section 62-180.

List of license plate numbers of lessors.

All licensees under this division shall file with the city manager a list of the license plate numbers for all the motorized bicycles leased by the licensee and shall further keep such list current at all times.

Secs. 62-181--62-195.

Reserved.

SUBDIVISION II. Sales or Rental Licenses*

***State law reference--Motor bicycle business license, Minn. Stats. § 168.832.**

Section 62-196. Required.

No person shall engage in the motorized bicycle business or operate a motorized bicycle livery without a license issued by the city clerk.

Section 62-197. Application.

Any person desiring a license under this subdivision shall apply in writing to the City Manager giving the name of the owner or manager of the business, the address of the business, the nearest street or parkway intersection of such place of business, the maximum number of motorized bicycles to be used and the state license number of each motorized bicycle.

Section 62-198. Fee.

The annual fee for a license under this subdivision shall be established by the council.

Section 62-199. Insurance.

No license shall be issued until the applicant obtains and files with the city clerk a policy of liability insurance by an insurance company authorized to do business under the laws of the state, to be kept in force for the remainder of the licensing year. The policy shall insure the applicant, his renters and lessees, and the persons operating such motor bicycles against liability for loss in the sum of \$25,000.00 for injury to or death of any one person in any one accident, \$50,000.00 for injury to or death of more than one person in any one accident, and \$5,000.00 because of damage to or destruction of property in any one accident resulting from the negligent operation, use or defective condition of any motor bicycle belonging to the applicant. The policy shall contain a provision for continuing liability there under for the term of the license to the full amount thereof, notwithstanding any recovery thereon. The policy also shall contain an endorsement to the effect that the liability under the policy is not affected by reason of any motor bicycle having been furnished to, or rented or leased by a minor, and further, that the city clerk shall be notified by letter at least ten days before the cancellation of the insurance policy. The policy shall also contain a provision providing for at least \$200.00 medical payments to cover the operator or passenger of such vehicle if personal injury results to the operator or passenger from its use.

State law reference--Motor bicycle business insurance, Minn. Stats. § 168.833.

Section 62-200. Investigation of traffic conditions prior to issuance.

Upon the filing of an application for a license under this subdivision, the police department shall investigate the traffic conditions in the immediate vicinity of applicant's proposed motorized bicycle business place, particularly during Saturdays and Sundays and holidays, and the police department shall make a report and recommend thereon to the City Council.

Section 62-201. Expiration date.

All licenses under this subdivision shall expire on January 1st of each year.

CHAPTER 66. UTILITIES

ARTICLE I. In General.

Section 66-1.

Application and payment for utility services.

- (a) Utility service shall include electric service, water service, sewer service, garbage service.
- (b) To secure utility service from the City, application shall be made to the City on forms prescribed by the City Council.
- (c) Accounts shall be carried in the name of the fee owner. The fee owner shall be liable for utility services supplied to his property, whether he is occupying the property or not and any charges unpaid shall be a lien upon the property.
- (d) At the time of filing an application for utility services the applicant shall deposit a sum of money with the City. This sum of money will be set by the City Council from time to time. The deposit and interest balance shall be returned upon the fee owner's termination of service with all bills paid. A utility deposit and interest balance will be returned to apartment and residential customers after the bill is paid by the due date for twelve (12) consecutive months. Deposits shall bear interest at the rates set by Minn. Stats. § 325E.02.
- (e) The Department of Finance in conjunction with the Department of Public Works may terminate utility services to delinquent customers in accordance with the City utility rules and regulations. Service calls for reconnection of service after termination for nonpayment of bills shall be accompanied by a charge set by the City Council from time to time.
- (f) Each year an assessment roll shall be prepared providing for assessment of all delinquent utility service accounts against the respective properties served. The assessment roll shall be delivered to the Council for adoption on or before October 10th of each year. Upon such adoption, the clerk shall certify the assessment roll to the County Auditor for collection.

Section 66-2.

Connections to public sewer and water required; right of city to make connection.

- (a) It shall be the duty of every owner or occupant of any property platted into lots and blocks and having a dwelling house or business property situated thereon, which property abuts upon any public street or alley along which any municipal sewer and water mains shall have been constructed, to install a toilet in such dwelling or business property and make connection thereof with the water and sewer in such street or alley adjacent thereto.
- (b) It shall be unlawful for the owner or occupant of any property situated as described in subsection 66-2(a) to fail to make connection with the water and sewer within 30 days after written notice is given to such owner or occupant to install such toilet, and written notice shall be prepared by the City Clerk and served on such owner or occupant.
- (c) Whenever any owner or occupant shall fail to comply with such written notice the City Council shall by resolution direct that a toilet be installed and that a connection be made with the sewer and water and that the cost of such installation be paid in the first instance out of the general revenue fund, and the

actual cost thereof shall be assessed against the property benefited by such connection.

- (d) After such installation and connection is completed by order of the City Council, the City Clerk shall serve a written notice of the assessment upon the owner or his representative directing him to pay such assessment within ten days after the service of such notice to the City Finance Director. If such assessment is not paid within ten days it shall be the duty of the City Assessor to certify the amount thereof to the County Auditor for collection in the same manner as other special assessments are made; provided, that the commission may by resolution provide that the assessment plus interest, not to exceed six percent per annum, be spread over a term of five years upon request of the owner of the property or his representative.

State law reference--Authority to require sewer and water connections, Minn. Stats. §§ 410.33, 412.231, subd. 28.

Section 66-3.

Waterworks and light department property--Unauthorized connections.

No person shall make any connection with any meter, pieces, conduit, wire, line, or other apparatus belonging to the City and used in the management or operation of the waterworks and light department of the City, for the purpose of taking, using, or wasting water or electric current there from without first having obtained the written consent of the Director of Public Works and Director of Electric Utility Department.

Secs. 66-4--66-30.

Reserved.

CHAPTER 66. UTILITIES

ARTICLE II. **Sewers and Sewage Disposal.**

DIVISION 1. **Generally.**

Section 66-31. Control of construction of sewers, drains, and connections.

The City Manager shall have general supervision and control of all public sewers and drains and connections thereto, which have been or may hereafter be constructed by the City, or which have been or may be hereafter constructed by private parties under authority granted by the City Council.

Section 66-32. Enforcement of article.

It shall be the duty of the City police department, in all cases where they may find any person engaged in the work of breaking ground for the purposes of making connections, etc., with sewers or drains or in any manner interfering with or operating upon any of the sewers or drains of the City, to ascertain at once if such persons have been granted a permit therefore, and in the event such person does not have a permit, to order them to desist, under pain of arrest for violation of this Code and to at once report the fact to the City Manager.

Section 66-33. Right of entry for inspections; correction of defective sewers and drains.

The City Manager or his duly authorized assistants shall have the right to enter upon any premises connected with any public sewer or drain at all reasonable hours for the purpose of ascertaining whether the provisions of this article or any other ordinance in regard to house drains or connections have been complied with and whether the sewer or drain connecting such premises with the public sewers is in good condition. If the City Manager shall find that such sewer or drain or its appurtenances do not conform to the provisions of law in regard thereto, or have become clogged, obstructed, broken, or out of order, he shall notify the owner, agent, or occupant or person having charge of the building or premises which are drained by such sewer or drain. It shall thereupon be the duty of such owner, agent, occupant or person having charge of the building or premises to cause the sewer or drain or appurtenances to be removed, reconstructed, repaired, altered or cleansed as the condition of such sewer or drain or appurtenances may require, and in case of neglect or refusal of the owner, agent, occupant or other person to remove, reconstruct, repair, alter or cleanse such sewer or drain or appurtenances for the space of three days after receiving such notice from the City Manager, the City Manager shall cause such work to be done in such a manner as he may deem expedient and shall charge the expense thereof to the owner, agent, occupant or other person provided in this section.

Section 66-34. Connection permit.

- (a) No connection shall be made with any public sewer or drain without a written permit from the City Manager, or his duly authorized assistants, and no connection so made shall thereafter be extended without such a permit.
- (b) Applications for permits to connect to sewers and drains must be made and filed in the office of the City Manager or his duly designated assistants by the licensed plumber who is employed to do the work and must state the location of the property to be connected and the name of the owner and the number of buildings to be connected and how occupied. Applications for permits must be accompanied by a sketch plan showing the location of the proposed connection

and the manner in which it is to be made. The city manager shall inspect the plan and if it is found that the connection provided for by such plan does not conform to the provisions of this article or the rules and regulations of the commission relating to such connections or such permit shall not be issued for its construction.

- (c) No permit shall be issued to tap or connect with any municipal sewer or water system of the City, either directly or indirectly, from any lot or tract of land, unless the Finance Director shall have certified the following:
 - (1) That such lot or tract of land to be served by such connection or tap has been separately assessed for lateral sewer system and lateral water main with which the connections are made and for other municipal improvements benefiting the property;
 - (2) If no assessment has been levied for such improvements, that proceedings for levying such assessment have been or will be commenced in due course;
 - (3) That the cost of all improvements benefiting the property have been paid by the developer or builder platting such lot or tract of land; or
 - (4) That the applicant has paid compensation to the city for the sanitary sewer, water main, and all other improvements benefiting the property. The amount of compensation shall not exceed the benefit to the property resulting from the improvements. The latest large-area assessments for similar improvements may be used as a guideline in determining the benefits to the property.
- (d) Any sum received by the City under subsection (c) of this section shall be paid into a special expense account until it shall be determined by the City Council whether the property, served by such connection under such permit will be assessable for any other sewer system or water main; if it shall be determined that no other main shall be so assessable, then such fee shall be credited to the fund for the sewer system or water main to which the connection was made, but if the tract or lot served by the connection is subsequently assessed for another sewer system or water main, such sum shall be transferred to the fund for such main, and credited against the amount assessable against such tract or lot.
- (e) All permits issued to connect with sewers and drains shall be upon the express condition that the City Manager or his designee may revoke and annul the permit at any time previous to the time the work of making such connection is commenced, and the person making such connection, or his successors in interest, shall not have the right to claim any damages in consequence of such permit being revoked or annulled.

Section 66-35.

Street excavations; restoration of streets, curbs, and sidewalks thereafter.

When excavations in the street are made, the paving or street surfacing and the excavated material shall be deposited in a manner that will occasion the least inconvenience to the public; provided that the passage of storm water along the gutters must be made. One-half the street must be left clear for the passage of vehicles and bridge-ways must be provided on sidewalks for foot passengers. In refilling the trench the earth must be thoroughly rammed to prevent settlement. The paving or street surfacing and curbs and

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sidewalks are to be restored to at least as good a condition as they were before the excavation was made, and all rubbish and surplus earth must be removed.

Secs. 66-36--66-50. **Reserved.**

CHAPTER 66. UTILITIES

ARTICLE II. **Sewers and Sewage Disposal**

DIVISION 2. **Rate and Charges**

***Charter reference--Utility rates, § 12.02.**

Section 66-51. **Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Industrial wastes means the liquid waste resulting from any commercial, manufacturing or industrial operations or processes.

Sanitary sewage means the waste from water closets, lavatories, sinks, bathtubs, showers, household laundries, cellar floor drains, bars, soda fountains, refrigerators, air conditioners, drinking fountains and any other equipment or device.

Cross reference--Definitions generally, § 1-2.

Section 66-52. **Power to fix and adjust rates.**

The City Council shall have the power to classify sewage and industrial wastes discharged into the sewage system based upon its concentration and cost of disposal, and to fix just and reasonable rates and charges for its disposal according to such classification, and the City Council shall have the power to increase or decrease such rates and charges as may reasonably be required.

Secs. 66-53--66-80. **Reserved.**

CHAPTER 66. UTILITIES

ARTICLE III. Solid Waste Collection and Disposal.

DIVISION 2. Private Collectors.

Section 66-106. License.

- (a) No person shall haul garbage, other refuse, recyclables, yard waste, or white goods for hire without a license therefore from the city, or haul garbage, other refuse, recyclables, or yard waste from their own residence or business properties other than as excepted in this Chapter.
- (b) There shall be two license categories, defined by the type of account served: Commercial/Industrial/Multiple Dwelling Collection and Residential Dwelling Collection, both as defined in Chapter 66, Article III, Division 1. The City Council shall establish license fees. Licenses shall be issued for one calendar year, from January 1 through December 31. Each vehicle for which a hauler's license is issued shall exhibit such license in a prominent position on such vehicle. No collector licensed pursuant to this article shall acquire any vested right in a license. The City may, upon finding that public necessity requires, determine to establish other means of refuse collection.
- (c) Prior to the issuance of a license an applicant must obtain and provide proof of all the insurance required within this Article. All costs and expenses are the responsibility of the applicant. All insurance coverage is subject to approval by the City and shall be maintained by the Licensee for the full term of the license. No activity under this license shall be commenced until the requirements of this Article have been satisfied.
 - (1) The Licensee shall obtain and maintain statutory Worker's Compensation Coverage as required under the laws of the State of Minnesota.

In the event the Licensee is a sole proprietor and has not elected to provide Worker's Compensation Coverage, Licensee shall be required to execute and submit an affidavit of sole proprietorship in a form satisfactory to the City.
 - (2) The Licensee shall obtain and maintain the following minimum coverage for comprehensive general liability (including premises' operations; independent contractors' protective; products and completed operations; broad form property damage):

Bodily Injury: \$1,000,000 per occurrence.
\$1,000,000 products/completed operations

Property Damage: \$1,000,000 per occurrence
 - (3) Licensee shall obtain and maintain the following minimum insurance coverage for personal injury liability (with employment related exclusion deleted):

Limit: \$1,000,000 per occurrence

- (4) Licensee shall obtain and maintain the following minimum insurance coverage for comprehensive automobile liability (owned, non-owned, hired):
- Bodily Injury: \$1,000,000 per person
 \$1,000,000 per occurrence
- Property Damage: \$1,000,000 per occurrence
- (5) Insurance certificates evidencing that the insurance required by this Article is in force with companies acceptable and licensed in the State of Minnesota, and in amounts required, shall be submitted for examination and approval by the City prior to the execution of the license. Thereafter, the certificates shall be filed with the City. The insurance certificates shall specifically provide that a certificate shall not be modified, canceled or non-renewed, except upon thirty (30) days' prior written notice to the City. Neither the City's failure to require or insist upon certificates, or other evidence tending to show a variance from the coverages specified in this section shall change a Licensee's responsibility to comply with these insurance requirements.
- (d) Each applicant shall file a schedule of rates to be charged by the hauler during the license period for which the application is made. The schedule of rates must include a base rate and all other charges to the consumer listed as a service fee, surcharge, or other similarly described fee. The schedule of rates must be submitted on a Schedule of Rates Form provided by the City, which is included in the license application and renewal packet. Every Licensee shall provide prior notification to the City of any change in rates to be implemented during the licensed period. Residential dwelling hauling rates shall include, at a minimum, a rate structure for the following services:
- (1) 30 to 40 gallon service;
 - (2) 80 to 90 gallon service;
 - (3) Walk up service;
 - (4) Handicapped service;
 - (5) White goods;
 - (6) Bi-weekly pick-up rate;
 - (7) Senior Citizen Discount Rate;
 - (8) Organized Neighborhood Collection Rate. A description of what meets the criteria for organized neighborhood collection must be listed on the Schedule of Rates Form.
- (e) Hauler licenses shall be granted only upon the condition that the Licensee have watertight packer-type vehicles to prevent the loss in transit of liquid or solid cargo, that the vehicle be kept clean and as free from offensive odors as possible and not be allowed to stand in any street longer than reasonably necessary to collect garbage, other refuse, or white goods. The Licensee shall also ensure that the collection site is left tidy and free of litter. No hauler operating on a route in

a residential district shall operate a truck on any street when the weight of such vehicle exceeds eight tons per axle.

- (f) Upon recommendation by the City Manager, the City Council may suspend or revoke the license of any Licensee whose conduct is found to be in violation of the provisions of this Article. Suspension or revocation may also be based on other health, safety, and welfare concerns arising out of the performance of the Licensee, its employees and agents, and/or its vehicles and equipment. The City's receipt of five (5) or more formal complaints, filed against a License, within a twelve-month period, which have been administratively reviewed and verified by City staff for accuracy, may also result in suspension or revocation of a license. Revocation or suspension of a license by the Council shall be preceded by a public hearing. The City Council may appoint a hearing examiner or may conduct the hearing itself. The hearing notice shall be mailed at least ten days prior to the hearing to the address given on the license application, shall include notice of the time and place of the hearing, and shall state the nature of the allegations against the Licensee.

State law reference--Licensing of solid waste collection, Minn. Stats. § 115A.93.

Section 66-107.

Limitation on Number of Licenses.

- (a) Purpose. It is the intent of the City to reduce the number of Solid Waste Collection Licenses issued. The means of this reduction will be through attrition. Said limitation is deemed necessary to protect the health, safety and welfare of the City and its residents.
- (b) No more than three (3) Residential collection licenses and three (3) Commercial collection licenses may be in force at any time, except that all companies licensed by the City as of September 1, 2015, may be relicensed according to the following conditions:
- (1) The Licensee has conformed to all City, County, State and Federal Laws related to solid waste collection;
 - (2) There is no lapse in the license period;
 - (3) The Licensee submits a fully completed annual renewal form, payment and all required documentation by the due date for renewals. Incomplete applications shall be returned to the Licensee and must be resubmitted by the original due date. Failure to submit a renewal, payment and all required documentation by the original due date will be cause for the City to deny the renewal of the license.
 - (4) Licenses are non-transferrable, except whereby an existing Licensee undergoes incorporation, sale or merger with another existing City of Anoka licensed collector, so long as the ownership, control, and interest in the license remain with a pre-existing Licensee.
 - (5) The type of service offered, i.e. commercial/industrial/multi-family or residential has not increased from the previous license period.
 - (6) There has been no increase in the number of trucks as listed in the application for the previous year license.

- (7) License must not have been suspended more than two (2) times in a 12-month period, or revoked.

Section 66-108.

Collection days and hours.

- (a) Residential dwelling hauling Licensees shall make weekly collection of separated garbage and other refuse, unless the consumer has entered into an agreement with the Licensee for bi-weekly pick-up service.
- (b) No residential collection of garbage, other refuse, or white goods shall be made except between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday. Saturday collection during these hours is permissible in weeks which include recognized national holidays. Customers shall be notified of a specific day for collection of their garbage, other refuse, or white goods and the Licensee shall collect the materials within those time periods. Commercial, industrial, and institutional collection of garbage, other refuse, and white goods shall be made between the hours of 6:00 a.m. and 6:00 p.m. on any day of the week and as often as is necessary to protect the public's health, safety and welfare. Residential "special pickup" as defined in section 66-82 may take place on any day, Monday through Friday, 6:00 a.m. to 6:00 p.m. as arranged by the resident and licensed hauler.

Section 66-109.

Duties and obligations of licensed collector.

A licensed collector must comply with the following operational requirements. Failure to observe any of these provisions may be a basis for suspension or revocation of a license.

- (a) A Licensee shall operate in a manner consistent with its application materials and provide notice to the City within 15 days of any change of information, forms, rate structures, or certificates filed as a part of the license application process.
- (b) The Licensee shall comply with all City, County and State laws and regulations, as well as this Article.
- (c) Upon the city's request, haulers shall be required to provide evidence that they have disposed of garbage, other refuse, and white goods at sites and in the manner authorized by law.

Secs. 66-110--66-130.

Reserved.

CHAPTER 66. UTILITIES

ARTICLE IV. Water System*

***State law reference--Authority to regulate use of waterworks, Minn. Stats. §§ 410.33, 410.231, subd. 11.**

Section 66-131. Watering restriction(s).

- (a) Upon the determination of City staff that water restrictions are necessary to protect water reserves, or to protect the publics' health, safety and/or welfare, the City staff may order the restriction or ban of watering, using City supplied water, which shall include but not be limited to the use of irrigation systems and the watering of grass, trees and shrubs.
- (b) The person in whose name the account for City water is kept by the City for each property within the City shall be responsible to maintain compliance with this section on such property. Upon any violation of the restrictions imposed by this article, the Department of City may issue written warning sand administrative fines. For cases of repeat or continued violations, the city may prosecute or terminate water service to the subject property Service may be restored upon payment of all fines and associated service restoration fees.

CHAPTER 66; UTILITIES

ARTICLE V. Stormwater Drainage Utility

Section 66-150. Establishment of Stormwater Drainage Utility.

- (a) Pursuant to Minnesota Statutes, Section 444.075, the City establishes a stormwater drainage utility and authorizes the imposition of just and reasonable charges for the use and availability of stormsewer facilities.

Section 66-151. Findings and Determinations.

- (a) In the exercise of its governmental authority and in order to promote the public health, safety, convenience and general welfare, the City has constructed, operated and maintained a stormsewer system ("the system"). This Ordinance is adopted in the further exercise of such authority and for the same purposes.
- (b) The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the system through the imposition of charges as provided in this Ordinance.
- (c) In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system cost, the topography of the City and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining and improving the system on the basis of the expected volume of stormwater runoff from the various parcels of land within the City during a standard rainfall event. For the purposes of this Ordinance, a standard rainfall event is defined as the one-year storm of one-day duration.
- (d) Assigning costs and making charges based upon expected typical storm water runoff volume cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this Ordinance undertake to establish a reasonable and practical methodology for making such charges.

Section 66-152. Rates and Charges.

- (a) *Runoff equivalent factor.* Rates and charges for the use and availability of the system shall be determined through the use of a "Runoff Equivalent Factor" ("REF"). For the purposes of this Ordinance, the REF is defined as the ratio of the average volume of surface water runoff coming from one acre of land subjected to a particular use, to the average volume of runoff coming from one acre of land subjected to typical single-family residential use within the City during a standard rainfall event. For the standard rainfall event, the volume of runoff from a given parcel is directly related to the area of imperviousness of that parcel. Therefore the REF is computed as the ratio of the average imperviousness of a given land use by the average imperviousness of single-family residential land use.
- (b) *Stormwater drainage charges.* In determining charges the City Council shall by ordinance establish a base system rate to be charged against one acre of land having a REF of one (1.0). The charge to be made against each parcel of land shall then be

determined by multiplying the REF for the parcel's land use category, times the parcel's acreage, times the base system rate. The REFs for the following land use categories within the City are as follows:

	LAND USE CATEGORY	RANGE OF IMPERVIOUSNESS (%)	AVERAGE IMPERVIOUSNESS (%)	REF
1	Open Space	0 - 15	7.5	0.33
2	Single-Family Residential	15 - 30	22.5	1.00
3	Townhouse/Two-Family Residential	30 - 40	35.0	1.56
4	Multi-Family/Apartments	40 - 50	45.0	2.00
5	Schools/Churches/Institutional	50 - 70	60.0	2.67
6	Commercial/Industrial/Retail	70 - 100	85.0	3.78

- (c) For the purposes of calculating stormwater drainage charges, each developed single-family residential lot shall be considered to have an acreage of one-third (1/3) of an acre. Townhouses and two-family residential lots shall be considered to have two units per one-third (1/3) of an acre.

Section 66-153.

Other Land Uses.

- (a) Other land uses not listed in the foregoing table shall be categorized by the Director of Public Works by assigning them to categories most nearly like the listed uses, from the standpoint of percent imperviousness. An appeal from the Director of Public Works' determination of a property category may be made to the City Council.

Section 66-154.

Public Hearing and Notice.

- (a) The City shall hold a hearing prior to determining whether to build, construct, enlarge or improve stormsewer facilities financed in whole or in part by the imposition of stormwater drainage fees. Notice of such hearing shall be published in the official City newspaper at least ten (10) days prior to the date of hearing. Owners of all property adjoining a proposed improvement shall be mailed or served with a notice at least ten days in advance of the hearing. Failure to give mailed notice or any defects in the notice shall not invalidate the proceedings.

Section 66-155.

Exemptions.

- (a) Public street right-of-ways and City-owned property are exempt from stormwater drainage charges.

Section 66-156.

Payment of Charge.

- (a) Stormwater drainage bills shall be mailed to the owner or other account holder with their city utility statement and shall specify the stormwater drainage charges.

Section 66-157.

Delinquent Accounts.

- (a) *Payment Options.* Owners and other account holders shall have the option of paying a rate for payments made on or before the due date listed on the bill or the option of paying an extended payment rate for payments made after the due date listed on the bill. The extended payment rate shall include the rates detailed herein plus a charge of

five percent (5%) of the current bill amount that is not paid by the due date listed on the bill.

- (b) *Delinquent Stormwater Drainage Accounts.* Collection of delinquent stormwater drainage accounts will be done per City Utilities Rules and Regulations, Section 400.
- (c) *Assessment of Delinquent Accounts.* All delinquent accounts shall be certified to the City Assessor who shall prepare an assessment roll for each year providing for assessment of the delinquent amounts against the respective properties served. The assessment shall include the amount of the delinquent account and the administrative charge, together with interest thereon at the maximum lawful rate. This assessment roll shall be delivered to the City Council for adoption on or before October 10th of each year.

Section 66-158.

Recalculation of Charges.

- (a) If a property owner or person responsible for paying the stormwater drainage charge questions the correctness of such a charge, such person may have the determination of the charge recomputed by written request to the Director of Public Works. Such request shall be made within thirty (30) days of the mailing of the billing in question.

Section 66-159.

Adjustments and/or Credits to the Stormwater Drainage Charges.

- (a) The City Council may by resolution adopt policies providing for the adjustment of charges or credits to charges for parcels or groups of parcels, based upon land use data supplied by affected property owners, of which data demonstrates a runoff volume for the standard rainfall event substantially different from that being used for the parcel(s). Such adjustment or credit shall be made by the Director of Public Works and shall not be made effective retroactively. An appeal from the Director of Public Work's determination may be made to the City Council.
- (b) The stormwater drainage utility uses a rate structure based on the anticipated relative contribution of stormwater runoff volume to the stormwater drainage system. A parcel's contribution is determined by that parcel's size and its land use, under the principle that more intensively developed land uses typically have a larger percentage of impervious surface and contribute a much greater volume of water to the system from the standard rainfall event.

It is recognized that some parcels, due either to their unique topographic, vegetative, geologic and/or other characteristics have a hydrologic response substantially different from that of similarly sized parcels of the same land use category. It is also recognized that some parcels may have a percent imperviousness substantially different than that typical of the parcel's assigned land use category. These differences can result in either a higher or lower runoff volume from that of the land use category assigned to the parcel.

To provide for an equitable assessment of stormwater drainage charges, based on reasonably expected contribution of flows, provisions need to be made to permit adjustments to the stormwater drainage charge for those parcels with unique or unusual characteristics, or credits to the stormwater drainage charge for those parcels with stormwater runoff volume control facilities. These adjustments can be initiated by either the landowner or the Director of Public Works or designee thereof.

- (c) The basis of the City of Anoka's stormwater drainage charges is the anticipated relative contribution of stormwater runoff volume to the stormwater drainage system from a given parcel. Where unique or unusual conditions exist where the actual contributions of stormwater runoff volume from a given parcel is substantially different from those anticipated by the stormwater drainage rate structure, the Director of Public Works, or designee thereof, may adjust or credit the stormwater drainage charge for said parcel to an appropriate level in accordance with the guidelines specified herein.
- The ordinance establishing the Stormwater Drainage Utility provides for the Director of Public Works to make adjustments and/or credits to the charges when the property owner supplies data demonstrating a storm water runoff volume for the standard rainfall event substantially different from that being used for the parcel.
- (d) *Property Owner to Provide Detailed Information.* It is the responsibility of the property owner or agent thereof to present to the Director of Public Works, or designee thereof, sufficient information concerning a parcel's hydrologic characteristics to permit an accurate assessment of the conditions that exist. This information may include, but is not limited to:
- (1) Site plan showing locations of all buildings, paved areas and other development relative to lot lines.
 - (2) The total lot area and area of impervious surfaces, in square feet.
 - (3) Site topography or contours of sufficient detail to ascertain flow directions, rates and volumes.
 - (4) Hydraulic calculations specifying outflow volumes and rates for various rainfall events.
- (e) *Adjustments Where Parcel Runoff is Significantly Different From Land Use Category.* Where the actual impervious area of a parcel differs from the assigned range of impervious percentage for that land use category by more than 20 percent, the Director of Public Works, or designee thereof, may adjust the parcel's stormwater drainage charge in accordance with the following procedure:
- (1) Calculation of the parcel's impervious area shall be submitted by a registered professional engineer and shall be based on actual current land use information such as aerial photography and/or current property land survey data identifying all buildings, paved areas and other development relative to lot lines.
 - (2) If the calculated impervious area is shown to differ from the assigned range of impervious area for that land use category by 20 percent or more, the parcel shall be categorized based on percent imperviousness and not land use.
 - (3) A parcel's stormwater drainage charge shall be subject to increases as well as decreases by this procedure.

(4) For parcels with ponds covered by public easements, the area used for the calculation of the charge shall be reduced by the size of the easement area.

(5) Because single-family, townhouse, and two-family residential fees are not based upon actual parcel acreage, no adjustments for runoff differences will be made for those land uses except for totally vacant unimproved fully turfed parcels. In this case the parcel shall be categorized as Open Space.

(6) Adjustments shall not be retroactive.

(7) Adjustments shall become effective from the date they are approved.

(f) *Procedure for Calculation of Stormwater Detention Credits.*

(1) A parcel may be credited for up to 50 percent of the stormwater drainage charge for on-site ponds which are owned and maintained by the applicant and which limit stormwater outflow rates from the site. The Public Works Director shall determine the amount of credit based on calculations submitted, on behalf of the owner, by a registered professional engineer.

(g) *City's Right to Inspect Facilities and Initiate Fee Adjustments and/or Credits*

(1) The Director of Public Works, or designee thereof, reserves the right to inspect periodically all storm drainage control facilities to ascertain that they are operating properly. If such a system, due to improper maintenance or other reason, fails to detain or cleanse stormwater runoff in an effective manner, the Director of Public Works, or designee thereof, may eliminate or reduce credits to an appropriate level. Any such facility shall not be eligible to apply for storm drainage charge adjustments and/or credits until the stormwater system has been determined by the Department of Public Works or designee, to be operating properly. Adjustments and/or credits shall not be made retroactively. An appeal from the determination of the Director of Public Works may be made to the City Council.

(2) The issuance of any building permit or other action, which changes or intensifies an existing land use shall be cause for an adjustment of stormwater drainage charges to an appropriate level.

(h) *Adjustment in Fees.*

In accordance with the City Charter, Chapter 12

CHAPTER 70. VEGETATION

ARTICLE I. **In General**

Section 70-1. **Penalty.**

Any person who violates subsection 70-64(c), section 70-68, or section 70-69, is guilty of a misdemeanor. A violation of any other section of this chapter shall be guilty of a petty misdemeanor.

Secs. 70-2--70-30. **Reserved.**

**CITY OF ANOKA
CITY CODE
CHAPTER 70; ARTICLE II**

CHAPTER 70. VEGETATION

ARTICLE II. Tall Grass, Brush or Noxious Vegetation*

***State law reference--Minnesota Noxious Weed Law, Minn. Stats. § 18.75 et seq.**

Section 70-31. Unlawful vegetation.

It shall be unlawful for any property owner, lessee, or occupant having control of any property within the City to permit or maintain on any property, or on or along the sidewalk, street or alley adjacent to the property, between the property line and the curb or middle of the alley, any uncultivated, or uncontrolled growth of weeds, grass, brush or other vegetation, which is not part of an orderly landscape design, to a greater height than six inches or any accumulation of dead weeds, grass, or brush. It shall also be unlawful for any such person or persons to cause or allow noxious weeds as defined by the statutes of the State to exist on any property within the City limits. Vegetation declared unlawful by this section is a public nuisance.

Section 70-32. Duty of owner, lessee or occupant.

It shall be the duty of every owner, lessee or occupant of any property within the City to cut, destroy, remove, or eradicate all nuisance vegetation as often as may be necessary to comply with the provisions of Section 70-31 and whenever the weed inspector or his assistants notify such owner, lessee or other occupant of the nuisance.

Section 70-33. Permitting a nuisance.

- (a) *Notice.* When an owner, lessee, or occupant permits a nuisance to exist in violation of Sections 70-31 and 70-32, the Weed Inspector may serve, by certified mail or hand delivery, written notice upon the owner, lessee or occupant of such property ordering compliance within seven (7) days after the posting date of such notice. The notice also shall state that in the event of noncompliance the Weed Inspector may order the work to be done by the Inspector or his/her assistants at the property owner's expense and further that the person has the right to appeal the order as provided in subsection (c) of this section.
- (b) *Noncompliance with notice.* If such person fails to comply with the notice, the Weed Inspector or his/her assistants shall take such action as is necessary to abate the nuisance. All costs, including administration, inspections, and work whether contractual or other, may be recovered by the City Council, at its direction, either by billing the person directly or by extending the cost of such work as a special assessment against the property which assessment shall be certified to the County Auditor for collection as other special taxes.
- (c) *Appeal.* Any person aggrieved by an order of the Weed Inspector or his/her assistants, may appeal that order to the City Council by filing a written request with the Weed Inspector within five (5) days of service of the notice provided in this section. The Weed Inspector shall within five (5) days cause the appeal to be placed on the next regular City Council agenda and shall notify the appellant of the date, time, and place of such meeting. The City Council shall have authority to affirm, amend, or reject the order of the Weed Inspector or his/her assistants.

CITY OF ANOKA

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Section 70-34.

Obstructing City employees.

No person shall obstruct the Weed Inspector, or his/her assistants, in the cutting, removal, or eradication of weeds or grass.

Secs. 70-35--70-60.

Reserved.

CHAPTER 70. VEGETATION

ARTICLE III. **Diseased Trees***

***State law reference--Shade tree disease control, Minn. Stats. § 18.023.**

Section 70-61. Declaration of policy.

The City Council has determined that the health of elm and oak trees within the City limits is threatened by fatal tree diseases commonly known as Dutch elm and oak wilt diseases. It has been further determined that the loss of elm and oak trees growing upon public and private property would substantially depreciate the value of the property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the expressed goal and objective of the Council to control and prevent the spread of these diseases of shade trees and other epidemic diseases of shade trees, and this article is enacted for that purpose.

Section 70-62. Administration.

- (a) *Administrator.* A qualified person within the park and recreation department shall be designated as the administrator by the City Council. The administrator shall exercise the powers and duties necessary to enforce the provisions of this article. The administrator shall be a certified pesticide applicator and tree inspector under the laws of the State. The powers and duties of the administrator may be assigned to other qualified persons in the park and recreation department in his absence.
- (b) *Duties of administrator.* It is the duty of the administrator to coordinate under the direction and control of the Council all activities of the City relating to the control and prevention of Dutch elm disease, oak wilt disease and other epidemic diseases of shade trees. By January 15th of each year, he shall recommend to the designated tree board and City Council the details of a program for the control of such diseases and shall perform the duties incident to such a program adopted by the Council.
- (c) *Tree inspector.* There shall be designated persons or employees within the department of park and recreation as tree inspectors to carry out the enforcement of this article. The inspectors shall be certified upon the passing of an examination prescribed by the state commissioner of agriculture for the purpose of determining that the applicant possesses the necessary qualifications to enforce the rules set forth in this article.
- (d) *Duties of tree inspectors.* It is the duty of the tree inspectors, under the direction and control of the administrator, to know the appropriate state laws and rules relative to oak wilt, Dutch elm and other epidemic diseases of shade trees and to know the approved control methods of these diseases. The tree inspectors must know the proper method of collecting samples of diseased diagnosis. The tree inspector must plan, direct, and supervise all requirements for controlling shade tree disease within the geographical limits of his control area.

Cross reference--Administration, ch. 2.

Section 70-63.

Epidemic disease program.

Intent. It is the objective of the tree commission and the City Council to conduct a program of plant pest control pursuant to the authority granted by Minn. Stats. § 18.022. This program is directed specifically at the control and elimination of the Dutch elm disease fungus, elm bark beetles, oak wilt fungus, and other injurious insects or diseases of shade trees and it is undertaken at the recommendation of the State Commissioner of agriculture. The administrator shall act as coordinator between the State Commissioner of agriculture, the tree commission, and the City Council in the conduct of this program.

Section 70-64.

Nuisances declared.

- (a) *Public nuisances.* The following things 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 fungus, ceratocystis ulmi (buisman) moreau, or which harbors any of the elm bark beetles scolytus miltistrailatus (eichh), or hylurgophinus rufipes (march).
 - (2) Any dead elm tree or part thereof, including but not limited to, logs, branches, stumps, roots, firewood or other elm material, which has not been stripped of its bark or burned, chipped or buried.
 - (3) Any living or standing oak tree or part thereof infected to any degree with mycelium mats or pads.
 - (4) Any dead oak tree or part thereof, which in the opinion of the tree inspector 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 cut into lengths not greater than 24 inches and split into quarters, or into smaller pieces if originally greater than 16 inches in diameter (for the period of July 1st through March 1st of the following year). Any of this wood left unburned after March 1 must be sealed in a sheet of clear plastic of at least four mils in thickness, and must remain contained in plastic throughout the period of March 1st through July 1st. Any wood not utilized by April 1st, will be removed by the City and the cost assessed to the private property owner.
 - (5) Other shade trees with injurious insects or diseases as determined by the tree inspectors.
 - (6) Elm firewood. It is unlawful for any person, firm or corporation to store bark-bearing elm firewood during the period April 1st through September 15th.
 - a. Elm firewood cannot be brought in from outside of a City or control area for use as firewood (Plant Quarantine No. 78-1 Elm Wood.)
 - b. Bark-bearing elm logs from trees cut within the boundaries of a City or control area can be kept from September 15th through April 1st, of the following year.

- c. During the period September 15th through April 1st, of the following year, bark-bearing elm firewood may be stored on homesteaded property so as to be in plain view and accessible for inspection by the tree inspectors.
 - d. Such woodpiles are subject to inspection by the City tree inspector prior to April 1st. Such inspections shall be conducted after written notice to each property owner or occupier is provided.
 - e. Any elm wood not utilized by April 1st, will be removed and disposed of by the City, or by authorized representatives of the City and the cost assessed to the private property owner.
 - f. This section does not include elm firewood that has been rendered pest-risk free by debarking as described in 3MCAR 1.0109.
- (b) *Abatement.* It is unlawful for any person to permit any public nuisance, as defined in this section, to remain on any premises owned or controlled by him within the city. Such nuisances may be abated in the manner prescribed by this article.
- (c) *Violations.* Any owner of real estate in the City who is notified of the existence of a diseased tree on his property as provided in section 70-67, must within 20 days from the mailing of such notice, cut down such diseased tree, either by himself, licensed private contractor, or City contractor. All remaining stumps on private and public property must be completely debarked to the ground line or chipped down to six inches below ground level. All parts, branches and brush shall be removed by the property owner, licensed private contractor, or contractor contracted by the City, to a designated disposal site, designated from time to time by the state commissioner of agriculture, county or city, if it is possible to obtain use of such place, and there such diseased material will be burned, buried, or chipped. The City shall be responsible for the proper removal and disposal of all diseased trees on property legally designated as public right-of-way or boulevard and private property when authorized by the tree inspectors for performance of both. The City shall not be responsible for the disposal of diseased trees and tree parts from private property if the property owner cuts down such trees either by himself or by licensed contractor.

Section 70-65.

Inspection and investigation.

- (a) *Annual inspection.* The tree inspector shall inspect all public and private places within the City, which might harbor plant pests, as defined in Minn. Stats. § 18.46, subd. 13, as often as practicable to determine whether any condition described in section 70-64 exists thereon. The tree inspector shall investigate all reported incidents of infection or infestation by the Dutch elm fungus, elm bark beetles, oak wilt fungus or any other epidemic diseases of shade trees. The term "private place" means every place except the private home.
- (b) *Entry on public and private places.* The tree inspector may enter upon all public and private places at any reasonable time for the purposes of carrying out any of the duties assigned him under this article.

- (c) *Diagnosis.* The tree inspector shall, upon finding symptoms indicating Dutch elm or oak wilt infestation, or other epidemic diseases of shade trees, immediately report such findings to the administrator who will notify the owner or occupier of the property of the existence of a diseased tree on his property and inform him of his responsibility to effectively remove such diseased material from the property in accordance with subsection 70-64(c). Diagnosis shall be made by field examination, as specified by the state commissioner of agriculture, unless a state agriculture pest lab is requested by the property owner. Except as provided in section 70-67, no action to remove infected trees or wood shall be taken until positive diagnosis is made.

Section 70-66.

Abatement of epidemic tree disease nuisances.

In abating the nuisances defined in section 70-64, the administrator shall cause the infected tree or wood to be removed, burned, buried or chipped, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of epidemic diseases of shade trees, including but not limited to, the Dutch elm disease and the associated elm bark beetles, and oak wilt disease. To prevent root graft transmission of the diseases, a barrier should be created between diseased and healthy trees, with vapam or other effective and recognized root graft barrier chemicals, or by digging a trench 30 inches deep in the soil surrounding the diseased trees. Such abatement procedure shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the State Commissioner of Agriculture.

Section 70-67.

Procedure for removal of infected trees and wood.

- (a) Whenever the administrator is notified with reasonable certainty that the infestation defined in section 70-64 exists in any tree or wood in any public or private place in the City, he shall proceed as follows:
- (1) If the administrator finds that the danger of infestation of other elm or oak trees is not imminent because of the dormancy of the infected tree or trees, he shall declare such trees as being in noncompliance with this article as of April 1st, of the following year and then shall proceed as follows:
- a. Abating the nuisance as a public improvement under Minn. Stats. ch. 429; or
- b. Abating the nuisance as provided in subsection 70-64(a).
- (2) If the administrator finds that danger of infestation of other elm or oak trees is imminent, he shall notify the property owner by certified mail that the nuisance must be abated within a specified time, not more than 20 days from the date of mailing of such notice. After the expiration of the time limited by the notice the administrator may abate the nuisance.
- (b) The administrator shall keep a record of the costs, and costs of abatements done under this article and shall report all work done to the City Clerk or other appropriate officer for which assessments or billings are made, stating and certifying the description of the land, lots, parcels involved and the amount assessable to each.
- (c) On or before September 1st of each year, the clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are

attributable. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minn. Stats. § 429.101, and other pertinent statutes, for certification to the county auditor and collection the following year along with current taxes unless provided for otherwise by consent and action of the City Council. Such assessment shall be payable in a single installment, pursuant to Minn. Stats. § 429.101, subd. 2.

Section 70-68. Transporting elm wood prohibited.

It is unlawful for any person to transport within the City any bark-bearing elm without having obtained a permit from the administrator. The administrator shall grant such permits only when the purposes of this article will be served thereof.

Section 70-69. Interference prohibited.

It is unlawful for any person to prevent, delay or interfere with the administrator or his agents while they are engaged in the performance of duties set forth in this article.

Secs. 70-70--70-90. Reserved.

CHAPTER 70. VEGETATION

ARTICLE IV. Trees on Public Property*

***Cross reference**--Streets, sidewalks and other public places, ch. 50.

State law reference--Authority to regulate trees, shrubs and flowers on public property, Minn. Stats. §§ 410.33, 412.231, subd. 8.

Section 70-91.

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boulevard means that part of a street or highway not covered by sidewalks or other paving, lying between the right-of-way line and that portion of the street or highway usually used for vehicular traffic.

Public property means all lands owned by the city.

Right-of-way line means the outer edge of a street or highway.

Cross reference--Definitions generally, § 1-2.

Section 70-92.

Tree commission.

The City Park and Recreation Advisory Board is hereby designated as the City Tree Commission. The Tree Commission shall study the problems and determine the needs of the City concerning a tree planting and management program. The Tree Commission shall provide recommendations to the City Council concerning such a program and disseminate information regarding the selection, planting, maintenance and general use of trees within the City on public and private property.

Cross reference--Boards and commissions, § 2-151 et seq.

Section 70-93.

Master street tree plan.

The Tree Commission shall prepare a master street tree plan with the aid of the administrator. Such plan shall specify where and under what circumstances trees may be planted on public streets or other public property of the City. The City Engineer, Utility Superintendent, City Planner, Building Official, Police Chief, Fire Chief and other appropriate departments and boards shall officially comment on the plan prior to recommendation by the Tree Commission for adoption. The City Council may, upon recommendation of the Tree Commission, adopt the master street tree plan and establish arboriculture specifications and standards of practice governing the maintenance of trees.

Section 70-94.

Appeals.

Property owners may appeal administrative decisions of the tree management provisions to the Tree Commission.

Section 70-95.

Emergencies.

In the case of emergencies, such as damaged utilities or natural disasters, all provisions of this article may be waived by the City Manager or Acting Manager so that the requirements of this article would in no way hinder private or public work to restore order to the City. This work shall follow maintenance standards as adopted by the City Council.

Section 70-96.

Municipal departments.

Work performed by the City Electric Utility, Public Works, or Park and Recreation Departments, that affect public trees or shrubs shall be reviewed by the administrator prior to performance of the work. The work of trimming or other operations affecting public trees shall be limited to the actual necessities of the service of the city electric utility, public works, or park and recreation departments and shall be performed according to the arboriculture specifications and standards of practice.

Section 70-97.

Improper work.

Whenever any tree is planted, pruned, removed or otherwise disturbed in violation of the provisions of this article, the administrator shall provide written notice of such improper work to the adjacent property owner with orders to take corrective action within ten days. If the adjacent owner fails to remedy the improper work within the prescribed time, the administrator may remove or cause removal of the improper work or take corrective action as he deems necessary to conform to the provisions of this article after providing written notice to abutting property owners. Any person performing such act shall be liable for the costs incurred by the city in taking such corrective action, and if the tree is located on a boulevard adjacent to property owned by such person, such costs may be assessed to the adjacent property.

Section 70-98.

Planting or removal.

No person shall plant or remove a tree on a public street or other public lands without authorization from the administrator or his agents. Such authorization shall be either written or verbal and shall be entered into the daily record of the management program by the administrator. Such planting or removal shall be done in accordance with the master street tree plan and the arboriculture specifications and standards of practice.

Section 70-99.

Maintenance.

- (a) Maintenance of street trees by adjacent property owners may be undertaken without prior authorization but must be done in accordance with the arboriculture specifications and standards of practice. Such maintenance work is subject to section 70-97 concerning improper work.
- (b) The maintenance and care of street trees shall be the responsibility of the City. Such responsibility may be assigned to abutting property owners only under the provisions of the master street tree plan and the arboriculture specifications and standards of practice. The city may undertake a program of street tree maintenance. The cost of such program may be assessed upon abutting property as a special assessment, or may be paid out of the general fund.

Section 70-100.

Review of construction, moving and other permits.

- (a) The administrator shall review or inspect and officially comment upon the issuance of any permits involving:
 - (1) The move of any building or other object along any street, which may endanger public trees.
 - (2) Any construction which may endanger public trees.
 - (3) The deposit, placement, storage or maintenance upon any public place, of any materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein.
- (b) The administrator shall determine if the work can be completed without serious injury to or destruction of public trees. The administrator may recommend denial of any necessary permits on the basis of anticipated serious injury to or destruction of public trees. Conditions may be placed on the permit which address the protection, trimming or removal of public trees. Such conditions may include replacement of trees removed. All work shall be performed in accordance with the conditions of the permit. All tree trimming or removal of trees necessary under the permit shall be carried out by the City employees or contract basis at the expense of the applicant. A bond or escrow fund adequate to cover the costs of trimming, removal and replacement of trees or shrubs by the City, as determined by the administrator, shall be deposited with the City before the permit is issued.

Section 70-101.

Abuse or mutilation of public trees.

Unless authorized by the administrator, no person shall damage, cut, carve, transplant, or remove any public tree, attach any rope, wire, nails, advertising posters, or other contrivance to any public tree, allow any gaseous liquid, or solid substance which may be harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree.

Section 70-102.

New planting by the City.

The City Council may authorize the Parks and Recreation Department to plant trees within the limits of any street in accordance with provisions of the master street tree plan. The cost of such trees and planting may be paid by adjacent property owners or may be assessed upon the property fronting on such improvements as a special assessment, or the City Council may fund the cost of such trees and plantings out of general funds as part of a reforestation program.

CHAPTER 74. ZONING*

ARTICLE I. In General

Section 74-1.

Intent and purpose.

The intent of this chapter is to protect the public health, safety and general welfare of the City and its people through the establishment of minimum regulations governing land development and use. This chapter shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land. Such regulations are established to provide adequate light, air and convenience of access to property; to prevent congestion in the public right-of-way; to prevent the overcrowding of land and undue concentration of structures by regulating land, buildings, yards and density of population; to provide for compatibility of different land uses; to provide for administration of this chapter, to provide for amendments; to prescribe penalties for violation of such regulations; to define powers and duties of the City Council, the board of adjustment and appeals, and the planning commission, in relation to this chapter.

Section 74-2.

Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Abutting means making contact with or separated only by public thoroughfare, railroad, or public utility right-of-way.

Accessory building means a subordinate building, or a portion of the main building which is located on the same lot or parcel as the main building and the use of which is clearly incidental to that of the main building or to the use of the premises.

Accessory use or structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Addition means an extension or increase in floor area or height of a building or structure.

Address sign means a sign communicating street address only, whether written or in numerical form.

Advertising signs means a sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located.

Alley means a public right-of-way 33 feet or less in width, affording a secondary means of access to abutting property.

Animals domestic pets means dogs, cats, birds, and other commonly known house pets.

Apartment means a room or suite of rooms rented, leased, or similar tenancy, with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any unit in buildings with more than two dwelling units.

Apartment building means three or more dwelling units or apartments grouped in one building with a common entryway.

Automobile car wash means a building, or portion thereof, containing facilities for washing more than two automobiles, using production line methods, including, but not limited to, steam cleaning device or other mechanical devices.

Automobile repair means general repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall pointing or paint job; vehicle steam cleaning; upholstering.

Automobile service station means a place where gasoline, stored only in underground tanks; kerosene; motor oil and lubricants for operation of automobiles, are related directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.

Automobile wrecking or junk yard means any place where two or more vehicles not in running condition and/or not licensed, or parts thereof are stored in the open and are not being restored to operation; or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

Awning and *canopy* mean a structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be fixed, raised, or retracted to a position against the building.

Basement means a portion of a building partially underground but having less than half its floor to ceiling height below the average grade of the adjoining ground. Each room or area in a basement shall be at least 7½ feet from floor to ceiling.

Block means all property abutting one side of a street between the two nearest intersecting streets or other natural or manmade barriers.

Boarder and/or roomer mean a person who regularly receives room and/or meals at another's home for pay or services.

Boardinghouse (room or lodging house) means a building or dwelling unit other than a motel or hotel, where, for compensation and by prearrangement, meals, and/or lodgings are provided for three or more persons not to exceed 25 persons or such arrangements covers a minimum period of seven consecutive days.

Boathouse means a structure used solely for the storage of boats or boating equipment, and not used for habitation.

Brewery, Micro is a facility with a capacity to manufacture less than 15,000 barrels of alcoholic and nonalcoholic malt liquor a year. This definition does not include a brewpub.

Brewery, National is a facility with a capacity to manufacture over 250,000 barrels of alcoholic and nonalcoholic malt liquor a year. This definition does not include a brewpub.

Brewery, Regional is a facility with a capacity to manufacture between 15,000 and 249,999 barrels of alcoholic and nonalcoholic malt liquor a year. This definition does not include a brewpub.

Brewpub is a small brewery operated in conjunction with a bar or restaurant provided the beer is sold for consumption on the premises and not sold to other bars, restaurants or

wholesalers, except that an establishment licensed under Minn. Stat. §304A.301, subd. 6(d) may sell "growlers" off-sale with appropriate City license.

Broadcasting antenna, radio and television means commercial, public or private broadcasting towers exceeding the district height limitations, or more than one tower of any height located on the same lot or parcel.

Buffer means the use of land, topography, difference in elevation space, fences, or landscape planting to screen or partially screen a use or property from another use or property, and thus reduce undesirable influences, such as site, glare, noise, dust, and other external affects.

Buildable area means the space remaining on a lot after the minimum setback, drainage provisions, ponding, compensatory storage, soils, open space and other site constraint requirements of this chapter have been met.

Building means any structure having a roof which may provide shelter, support, protection, or enclosure of persons, animals, or property of any kind, and when such structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Building height means the vertical distance to be measured from the grade of the building line to the top, to the cornice of a flat roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the average distance between the ridge and the eave of the highest gable on a pitched or hip roof.

Building line means an imaginary line separating buildable area and the required yards as defined in this section.

Building line, shore land means a line measured across the width of the lot where the main structure is placed in accordance with setback provisions from the ordinary high water mark, as designated by the state department of natural resources.

Building setback means the minimum horizontal distance between the building and lot line or the normal high water mark, as designated by the department of natural resources.

Business means any occupation, employment or enterprise, wherein merchandise is exhibited or sold, or where services are offered for compensation.

Carport means an automobile shelter having one or more sides open.

Cellar means that portion of a building having more than one-half of the floor to ceiling height below the average grade of the adjoining ground. Each room or area in a cellar shall be at least 7½ feet from floor to ceiling.

Channel means a natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Clear cutting means the removal of an entire stand of trees.

Club or lodge means a nonprofit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises providing adequate dining room space and kitchen facilities are available.

Cluster housing means the development pattern and technique whereby structures are arranged in closely related groupings to make the most efficient use of natural amenities of the land.

Commercial use means activity involving the sale of goods or services carried out for profit.

Compost facility means a site or facility for the controlled microbial degradation of leaves and/or grass clippings to yield a humus-like soil conditioner product.

Comprehensive plan means a computation of goals, policy statements, standards, programs and maps for guiding the physical, social, and economic development, both public and private, as defined in the state municipal planning act, and includes any part of such plan separately adopted and any amendment to such plan or parts thereof.

Conditional use means a use classified as conditional generally may be appropriate or desirable in a specific zone, but requires approval because if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.

Condominium means a form of individual ownership within a building which may entail joint ownership and responsibility for maintenance and repairs of the land and other common property of the building.

Corner lot means a lot situated at the junction of and fronting on two or more streets.

Covenant means a contract between two individuals which constitutes a restriction of a particular parcel of land.

Decorative masonry means individual units lain in and bound together by mortar, a masonry veneer, like brick masonry that is primarily decorative, not structural. Decorative masonry may include rock-faced concrete block, but not smooth surface concrete block.

Demolition debris means solid waste resulting from the demolition of buildings, roads, and other structures including, but not limited to concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts.

Demolition debris land disposal facility means a site used to dispose of demolition debris.

Density means a number expressing the relationship of the number of dwellings to an acre of land.

Disposal facility means a waste facility that is designed or operated for the purpose of ultimate and complete disposal of waste on or in the land.

Distilled spirits means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use.

District means a section of the City for which the regulations governing the height, area, use of buildings and premises are the same.

Diversion means a channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

Draining means the removal of surface water or groundwater from land.

Dredging means to enlarge or clean out a water body, watercourse or wetland.

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

Dwelling unit means a residential building or portion thereof intended for occupancy by a single family.

Easement means a grant by a property owner for use of a strip of land by the public or any person for any specific purpose or purposes of construction and maintaining utilities, including, but not exclusive of the following: sanitary sewers, water mains, electric lines, telephone lines, other transmission lines, storm sewer, storm drainage ways, gas lines, other service utilities, etc.

Electronic Cigarette/Vaporizer Shop means a retail establishment that derives more than 50 percent (50%) of its gross revenue from the sale of any product, or any component part of a product, whether or not marketed or sold separately, containing or delivering, or designed to deliver, nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product.

Energy recovery facility means a facility used to capture the heat value of solid waste for conversion to steam, electricity, or immediate heat by direct combustion or by first converting it into an intermediate fuel product.

Essential services means underground or overhead gas, electrical, steam or water distribution systems; collection, communication, supply or disposal system including poles, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings or transmission services.

Family means an individual or a group of two or more persons each related by blood, marriage, adoption, or foster care arrangement living together as a single housekeeping unit, or a group of not more than four persons not so related, maintaining a common household, and using common cooking and kitchen facilities.

Fence means any partition, structure, wall, or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.

Floor area means the area included within the surrounding exterior walls of a building or portion thereof, including the sum of the gross horizontal areas of several floors of a building including interior balconies, mezzanines, basements, and attached buildings, exclusive of vent shafts, courts, utility rooms, stairs, escalators, or the like.

Floor area ratio means the numerical value obtained through dividing the gross floor area of a building or buildings by the lot area on which such building or buildings are located.

Frontage means the boundary of a lot which abuts an existing or dedicated public street.

Garage means an attached or detached accessory building that is designed primarily for parking and storage of vehicles.

Garage, public means any premises, except those described as a private garage, used for the storage or care of power driven vehicles or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

Garage, repair means a building or space for the repair or maintenance of vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

Gasoline service station means any building or premises used for the dispensation, sale or offering for sale at retail of any motor fuels, oils, or lubricants. When the use is incidental to the conduct of a public garage, the premise is classified as a public garage.

General floodplain districts means those areas designated as unnumbered A Zones on the flood insurance rate map.

Grade (adjacent ground elevation) means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

Grading means changing the natural or existing topography of land.

Greenbelt means a planned barrier consisting of dense vegetation used for the purpose of separation and screening of land uses.

High water level means the high water elevation reached by the 1965 flood and set forth on the attached floodplain map.

Holiday signs means signs or displays which contain or depict a message pertaining to a national or state holiday, and no other matter.

Home occupation means any occupation or profession carried on by a member of the family residing on the premises, provided that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character of the dwelling, and does not utilize more than 25 percent of the building's gross floor area.

Hotel means any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in an individual room or apartment.

House trailer means a vehicle, used or capable of being used for sleeping or living quarters for one or more persons, having no foundation other than wheels or jacks and propelled by its own or by another power-driven vehicle to which it may be attached.

Impervious Surface means an artificial or natural surface through which water, air or roots cannot penetrate.

Industrial solid waste means all solid waste generated from an industrial or manufacturing process and solid waste generated from nonmanufacturing activities such as service and commercial establishments. Industrial solid waste does not include office materials, restaurant and food preparation waste, discarded machinery, demolition debris, or household refuse.

Industrial solid waste land disposal facility means a site used to dispose of industrial solid waste in or on the land.

Initiation of Construction. The first placement of permanent evidence of a structure on a site pursuant to a duly issued building permit, such as the pouring of slabs or footings, or any work beyond the state of excavation, grading or demolition, including the relocation of a structure. "Initiation of Construction" does not include the installation of streets, walkways, sidewalks, or parking lots; the excavation for a basement, footings, piers, or foundations; or the installation on the property of temporary buildings, such as garages, sheds, or trailers.

Junk means, but is not limited to, old or scrap signs, copper, brass, rope, rags, batteries, rubber debris, waste, or junked, dismantled appliances or parts thereof, or wrecked automobiles, farm, or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material which is stored, disassembled or sold without being processed for recycling.

Junk Vehicle means any motor vehicle, part of a motor vehicle, or former vehicle stored which is (1) unusable or inoperable because of lack of or defects in component parts; (2) damage from collision, deterioration, or otherwise; (3) beyond repair, and, therefore, not intended for future use as a motor vehicle; (4) being retained on the property for possible use of salvageable parts; or (5) is not properly and currently licensed for operation.

Junkyard means an establishment, place of business, or place of storage or deposit, which is maintained, operated, or used for storing, disassembly, keeping, buying, or selling unprocessed junk or storing, keeping, buying, or selling wrecked, scrapped, ruined or dismantled motor vehicles for the purpose of selling used motor vehicle parts. Junkyard does not include a metal recycling facility.

Lot means land occupied or to be occupied by one principal building or use and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area required by this chapter for a building site in the district in which such lot is situated and having its principal frontage on a street, or a proposed street approved by the City Council.

Lot area means the land area within the lot lines.

Lot depth means the minimum horizontal distance between the front lot line and the rear lot line of a lot.

Lot, double frontage means an interior lot having frontage on two streets.

Lot, frontage means the front of a lot shall be that boundary abutting a public right-of-way.

Lot, interior means a lot other than a corner lot.

Lot, through means a lot fronting on two parallel streets.

Lot line means a lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed right-of-way, the line of such public right-of-way shall be the lot line.

Lot line, front means that boundary of a lot which abuts an existing or dedicated public street. In no case shall there be more than two front lot lines applied to any lot. Any other lines abutting a public right-of-way shall be designated by the zoning administrator as either a side or rear lot line.

Lot line, rear means 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 means any boundary of a lot which is not a front lot line or a rear lot line.

Lot of record means any lot which is one unit of a plat duly approved and filed, or one unit of an auditor's subdivision or a registered land survey, that has been recorded in the office of the county recorder prior to January 18, 1965.

Lot width means the maximum horizontal distance between the side lot lines of a lot measured on or within the front yard setback requirements.

Marquee means a permanent roof-like structure extending from part of the wall of a building but not supported by the ground, and constructed of durable material such as metal or glass.

Mean flow level means the average flow elevation of a stream or river computed as the midpoint between extreme low and extreme high water.

Medical uses means those uses concerned with the diagnosis, treatment, and care of human beings. These include: hospitals, dental services, medical services, or clinic, nursing or convalescent home, orphan homes, rest home, sanitarium.

Merchandising services means the installation and setup of displays, signs, fixtures, cabinets, checkout, etc. that need to be installed in a retail environment. It may also include merchandising, stocking, retail surveys, point of sale integrity, space management analysis, consulting, retail plans, and label development.

Metal recycling facility means a facility at which recyclable materials are received and prepared or processed into a substantially different form and separated into the base component metals from which it is composed with the resulting metal product being shipped directly to consumers to be melted and made into new metal.

Metes and bonds description means a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of the section, lot or area by described lines or portions thereof.

Microdistillery means a distillery operated within the state producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

Mining means the extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removal thereof from the site. For the purpose of this chapter, mining shall not include: the removal of materials associated with

the construction of a building, the removal of excess materials in accordance with approved plats or utility and highway construction, minor agricultural and sod removal except as further regulated in this chapter.

Mining operation means the removal from the land of stone, sand and gravel, coal, salt, iron, copper, nickel, granite, petroleum products or other material for commercial, industrial, or governmental purposes.

Mixed municipal recyclable materials means materials that are separated from mixed municipal solid waste for the purpose of recycling, including items such as paper, glass, plastics, automobile oil and batteries. Refuse derived fuel, material destroyed by incineration or junk as defined by this chapter are not recyclable materials.

Mixed municipal recycling facility means a facility at which recyclable materials separated from mixed municipal solid waste are prepared for reuse in their original form or for use in manufacturing process that do not cause the destruction of the materials in a manner that precludes further use.

Mixed municipal solid waste means garbage, refuse and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection. Mixed municipal solid waste does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.

Mobile homes, trailer coach, trailer or automobile trailer means any vehicle or structure designed and constructed in such a manner as will permit occupancy thereof as a dwelling, or sleeping quarters for one or more persons, or the conduct of any business or profession, occupation or trade for use as a selling or advertising device, and so designed that it is or may be mounted on wheels and used as a conveyance on highways or City streets, propelled or drawn by its own or other motive power, or it may be a structure as designed and constructed in such a manner that it can be transported in one or several segments by some other means other than its own power, excepting a device used exclusively upon stationary rails or tracks.

Mobile home park means any park, trailer park, trailer court, trailer camp, trailer camp site, court, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any mobile home coach or mobile home coaches and upon which any mobile home coach or mobile home coaches are parked and shall include all buildings used or intended for use as part of the equipment thereof, whether a change is made for the use of the mobile home park and its facilities or not. "Mobile home park" shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

Mobile home stand means that part of an individual lot which has been reserved for the placement of a mobile home.

Mobile home unit means a section of ground in a mobile home park of not less than 5,000 square feet of unoccupied space in an area designed as the location for one mobile home, off-street parking space for two automobiles and other uses considered pertinent to the establishment and use of a mobile home residence as permitted by this chapter.

Motel means a building or groups of buildings used primarily for the temporary residence of motorists or travelers.

Multiple residence means three or more dwelling units in one structure.

Municipal water and sewer systems means utility systems serving a group of buildings, lots, or an area of the city, with the design and construction of such utility systems as approved by the director of public works.

Natural drainage system means all land surface areas which by nature of their contour configuration, collect, store, and channel surface water run-off.

Natural obstruction means any rock, tree, gravel or analogous material matter that is an obstruction and has been located within a water body, watercourse, or wetland by a nonhuman cause.

Noise means one, or a group of, loud, harsh non-harmonious sounds or vibrations that are present and irritating to the ear.

Noise, ambient means that all encompassing sounds associated with a given environment, which may be either a composite of sounds, transmitted by any means from many sources near and far or from a single-predominant source.

Noxious means matter which is capable of causing injury or is in any way harmful to living organisms, or is capable of causing detrimental effect upon the health, the physiological and social or economic well-being of human beings.

Nuisance is as defined in Chapter 38, Article II, 38-30 through 38-32.

Nursing home, rest home or convalescent home mean a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder, but not containing equipment for surgical care or for treatment of disease or injury. A nursing home shall be licensed by the state board of health, as provided for in Minn. Stats. § 144.50.

Off-street loading space means a space accessible from the street, alley, or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials. Such space shall be of such size as to accommodate one truck of the type typically used in the particular business.

Open sales lot means land devoted to the display of goods for sale, rent, lease, advertising, merchandising, or trade where such goods are not enclosed within a building, including, but not limited to, flea markets.

Open space means any open area not covered by structures or parking.

Open space, common means a parcel or parcels of land or an area of water not required for storage of the regional flood or a combination of such land and water area within the site designated for private open space for the sole benefit, use and enjoyment of the homeowners within a planned unit development or similar developments associated with common open space area.

Open space, private means any open space owned by a person or persons.

Open space, public means any open space publicly owned.

Open storage means storage of any material outside of the building and/or structure.

Orientation means the placement of a structure on its lot with regard to other structures, natural elements such as sun, wind and impacts from noise, glare, and similar adverse elements.

Ordinary high water level means 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. For watercourses, the ordinary high water level shall be the elevation of the top of the bank of the channel. For reservoirs and flowages the ordinary high water level shall be the operating elevation of the normal summer pool.

Outdoor activities means outdoor activities such as loading and unloading from a vehicle to a commercial, manufacturing or processing use. Outdoor activities do not include an individual person(s) accessing individual mini-storage units.

Outdoor storage means the keeping of any goods, material, merchandise, or vehicles in the same location for more than seven (7) consecutive days outside of a building and/or structure. This includes storage yards for contractors, equipment, lumber, landscaping materials, construction materials and shipping materials.

Parking ramp means an accessory structure or use for the storage of motor vehicles at, below and/or above grade.

Parking space means an area of not less than 8½ feet in width and 20 feet in length, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one automobile which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

Party wall means a common wall which divides two independent structures.

Pedestrian way means a public or private right-of-way across or within a block, to be used by pedestrians.

Performance standards means criteria established to control environmental conditions such as, but not limited to, odor, smoke, toxic or noxious matter, vibrations, fire and explosive hazard, glare, runoff generated by or inherent in use of land or building.

Permitted use means a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

Place of worship means a church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs; a special-purpose building that is architectural designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

Plan, comprehensive means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the planning agency's recommendations for the future development of the community.

Plan, concept means a report in map and text form submitted as the first step of a planning unit development (PUD) proposal, depicting the location, general purpose, general type of land use, and circulation pattern, primary relationship between site elements and between the proposed development and surrounding development, proposed general schedule of development and information on the proposed developer.

Plan, site means a map or graphics prepared to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of the structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, existing and proposed grading, walkways, and other site development information as related to a proposed development.

Planned unit development means a development, having two or more principal uses or structures on a single tract or tracts of land, developed according to a plan approved by the city, under single ownership or unified control. A planned unit development allows for flexibility not available under normal zoning district requirements. A planned unit development may include a combination of land uses.

Planning Commission means the duly appointed planning advisory group with duties as defined by Minnesota Statutes and the Anoka City Council.

Plaza means an open space that may be improved or landscaped, used for public purposes such as outdoor seating, outdoor gathering areas or landscaped courtyard, usually surrounded by streets and buildings and is not used for outdoor sales, storage or for a parking space or drive lane.

Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by this ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted would not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties also include access to direct sunlight for solar energy systems.

Plat means a map, graphics or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record title. The plat is a recorded legal document and must conform to all state laws.

Prefabricated home means a non-mobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.

Principal structure or use means one which determines the predominant use as contrasted to accessory use or structure.

Principal use means the primary or main use of land or buildings as distinguished from subordinate, incidental or accessory uses.

Property line means the legal boundaries of a parcel of property which may also coincide with the right-of-way of a road, cartway and the like.

Public building means a building owned and operated by the City including but not limited to, fire stations, wells, City hall, public works, senior citizen facility and police facilities.

Public façade means side(s) of a building that is visible from and within two-hundred feet (200') of a public street, rail line, public park, public plaza or other public open space.

Public land means land owned or operated by municipalities, school district, county, state, or other governmental unit.

Public uses means uses owned or operated by municipal, school districts, county, state or other governmental units.

Public waters means any waters of the State which serve a beneficial public purpose, as defined in Minn. Stats. § 103F.511, subd. 8. However, no lake, pond, or flowage of less than ten acres in size and no river or stream having a total drainage area less than two square miles need be regulated by the municipality for the purposes of these regulations. A body of water created by a private user where there was no previous shore land, as defined in this section, for a designated private use authorized by the commissioner and the state department of natural resources shall be exempt from the provisions of these regulations.

Quadhome means a four unit multiple residence building with private entrances to each unit.

Reclamation, land means the improvement of land by the depositing of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.

Registered land survey means a survey map of registered land designed to simplify a complicated metes and bounds description designating the land description into tract or tracts of registered land survey number.

Religious use means a structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

Residence means a building used exclusively as a home, except for accessory uses.

Riparian lot means a lot which has a front, rear, or sideline contiguous to or below the ordinary high water level of a river. Such line shall be the front lot line.

Road means a public right-of-way affording primary access by pedestrians in vehicles to abutting property whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, place, or however otherwise designated. Egress and ingress easements shall not be considered roads.

Selective cutting means the removal of single scattered trees.

Shore Impact zone means land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent (50%) of the required structure setback or 50 feet (50') landward of the ordinary high water level in areas of agricultural use.

Shore land means land located within the following distances from public water; (i) 1,000 feet from the normal high water mark of a lake, pond, or flowage; or (2) 300 feet from a river or stream or floodplain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shore lands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the water for lesser distances. Public waters shall be any existing body of water, wetland, drainage way as designated by the state department of natural resources.

Shore land alteration means grading and filling in shore land areas or any alteration of the natural topography where the slope of the land is towards a public water or water course leading to a public water.

Shore land setback means the minimum horizontal distance between the structure and the normal high water mark.

Single-family dwelling. See "Dwelling, one-family."

Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities.

Solid waste land disposal facility means a facility used to dispose of solid waste in or on the land.

Solid waste management facility means a facility for the storage, collection, transportation, processing or reuse, conversion, or disposal of solid waste.

Story means 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 means 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 the floor of such story.

Street means a public right-of-way 34 feet or more in width, affording a primary means of access to abutting property.

Street, arterial, or major means a street which serves, or is designated to serve, heavy flows of traffic which is used primarily as a street route for traffic between communities and/or other heavy traffic generating areas.

Street, collector means a street which services, or is designed to serve, as a traffic way for a neighborhood or as a feeder to a major roadway. Direct driveway access is limited to the greatest extent possible.

Street, local means a street intended to serve primarily as access to abutting properties.

Street frontage means the proximity of a parcel of land to one or more streets. An interior lot has one street frontage and a corner lot has two frontages.

Street pavement means the wearing or exposed surface of the roadway used by vehicular traffic.

Street right-of-way means the width of the right-of-way, measured at right angles to the centerline of the street.

Street width means the width of street surface measured at right angles between the curbs or edge of pavement.

Structural alteration means any change, other than incidental repairs, which would prolong the life of supporting members of a building such as bearing walls, columns, beams, girders, or foundations.

Structure means anything which is built, constructed or erected on the ground or attached to the ground; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts jointed together in some definite manner whether temporary or permanent in character, including decks and signs.

Subdivision means the division or redivision of a lot, tract, or parcel of land into two or more lots, either by plat, metes and bounds, or by registered land survey.

Substandard use means any use existing prior to the date of this chapter which is permitted within the applicable zoning district but does not meet the minimum lot area, frontage, setbacks, water frontage length, or other dimensional standards of this chapter.

Taproom is an area on the premises of or adjacent to one brewery location owned by the brewer that allows the on-sale of malt liquor produced by the brewer for consumption. Such use shall be accessory to the primary use of a national, regional or micro brewery and may be a restaurant.

Tobacco Shop means retail establishment that derives more than 50 percent of its gross revenue from the sale of any product, or any component part of a product, whether or not marketed or sold separately, containing or delivering, or designed to deliver, nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product.

Topsoil means black dirt composed of unconsolidated material, largely undecomposed organic matter.

Townhouses means structures housing two or more dwelling units of not more than two stories each and contiguous to each other only by sharing one common wall, such structures to be of the town or row houses type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of eight dwelling units and each dwelling unit shall have separate and individual front and rear entrances. Each unit shall be served by individual utilities.

Toxic and hazardous waste means 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 waste which requires special handling and must be disposed of in a manner which conserves the environment and protects the public health and safety.

Transfer station means a facility in which solid waste or demolition debris is collected, sorted, or temporarily deposited to await transportation to the final disposal site or facility.

Use means the purpose or activity for which the land or building thereon is designated, arranged, or intended, for which it is occupied, utilized, or maintained.

Use, permitted means a public or private use which of itself conforms with the purposes, objectives, requirements, regulations, and performance standards of a particular district.

Use, principal means the main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

Useable open space means a required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either

active or passive recreation or both, available and accessible to and useable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreation purpose. Roofs, driveways and parking areas shall not constitute useable open space.

Variance means a modification or variation of the provisions of this chapter where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of this chapter would cause practical difficulties.

Vehicle.

1. Midsize vehicle means any motorized vehicle or trailer more than eight (8) feet and up to nine (9) feet in height or more than twenty-two (22) feet and up to twenty-five (25) feet in length, or more than 12,000 pounds and up to 15,000 pounds gross vehicle weight.
2. Oversized vehicle means any motorized vehicle or trailer more than nine (9) feet in height, or more than twenty-five (25) feet in length, or more than 15,000 pounds gross vehicle weight.
3. Stored vehicle means a parked vehicle that has remained in the same location for seven (7) consecutive days or more. Any vehicle moved less than 300 feet shall be deemed to have remained in the same location.
4. Height is measured from the ground to the highest point on the vehicle at recommended tire pressure. All accessories, attachments, and materials carried on the vehicle are considered part of the vehicle.
5. Length is measured at the longest point of the vehicle or, if the vehicle is a trailer, the horizontal distance between the front and rear edges of the trailer bed. All accessories, attachments, and materials carried on the vehicle are considered part of the vehicle.

Water body means a body of water (lake, pond) in a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

Watercourse means a channel or depression through which water flows, such as rivers, streams, or creeks, and may flow year around or intermittently.

Watershed means the area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

Watershed management or flood control structure means a dam, floodwall, wingdam, dike, diversion channel, or an artificially deepened or widened stream channel following the same or approximately the same course as the natural channel, or any other structure for altering or regulating the natural flow condition of a river or stream. The term "watershed management or flood control structure" does not include pilings, retaining walls, gabion baskets, rock riprap, or other facilities intended primarily to prevent erosion and which must be authorized by period from the commissioner of the state department of natural resources.

Wetland means land which is annually subject to a periodic or continuing inundation by water and commonly referred to as a bog, swamp, or marsh.

Yard means a required open space on the lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this chapter. A 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, front means a yard extending along the full width of the front lot line between the side lot lines and extending from the abutting street right-of-way to the depth required in the setback regulations for the zoning district in which such lot is located.

Yard, rear means an open space unoccupied except for accessory buildings on the same lot with a building, between the rear lines of the building and the rear line of the lot, for the full width of the lot.

Yard, side means the yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.

Zero lot line split means the instance where a structure is allowed to be constructed over a lot line of two adjoining lots.

Zoning administrator means the officer charged with the administration and enforcement of this chapter.

Zoning amendment means a change of the zoning map or zoning text authorized by the City, either in the allowed use within a district, or in the boundaries of a district.

Zoning district means an area or areas within the limits of the City for which the regulations and requirements governing use are uniform.

Zoning district, overlay means a zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

Zoning map means the map or maps incorporated into this chapter as a part thereof, designating the zoning districts.

Cross reference--Definitions generally, § 1-2.

Section 74-3.

Applicability of chapter.

From and after the effective date of the ordinance from which this chapter is derived, the use of all land and every building or portion of a building erected, altered and with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the City shall be in conformity with the provisions of this chapter.

Section 74-4.

Interpretation of chapter.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance or regulation shall be controlling.

Section 74-5.

Vacations.

*CITY OF ANOKA
CITY CODE
CHAPTER 74; ARTICLE I*

Any landowner seeking vacation of an interest of the City in real property within the City may institute appropriate proceedings by paying such fees to cover administrative costs as are determined by the council by resolution. Additionally, the applicant shall reimburse the City for all out-of-pocket expenses, including attorneys fees, incurred in connection with vacation proceedings. Such fees and expenses shall be nonrefundable, whether or not the vacation is completed.

Charter reference--Vacating streets, § 13.06.

State law reference--Vacating streets, Minn. Stats. § 440.135.

Secs. 74-6--74-30.

Reserved.

CHAPTER 74; ZONING

ARTICLE II. Administration and Enforcement.*

***Cross reference--**Administration, Ch. 2.

Section 74-31. Violations and penalties.

- (a) Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists enforcement of any of the provisions of this chapter shall be guilty of a misdemeanor.
- (b) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the zoning administrator in addition to other remedies, may institute any proper action or proceedings in the name of the city, and hereby shall have the powers of a police officer to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to remain correct or abate such violations to prevent the occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

State law reference--Authority to enforce zoning ordinances and provide penalties for violations, Minn. Stats. § 462.362.

Section 74-32. Zoning administrator.

The office of the zoning administrator is hereby established. It shall be the duty of the zoning administrator to enforce this chapter through the proper legal channels.

Cross reference--Officers and employees, § 2-61 et seq.

Section 74-33. Zoning District Classification, Zoning District Boundaries, and Zoning Ordinance Text Amendments.

- (a) *Authority.* This Ordinance and the Zoning District classification or zoning boundaries may be amended from time to time by an Ordinance duly enacted by the City Council in accordance with the procedures of this Section. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the City as found in the Community (Comprehensive) Plan or changes in conditions in the City. Any change in the Zoning Ordinance shall be in compliance with the Community (Comprehensive) Plan.
- (b) *Initiation.*
 - (1) *Text Amendments.* Proposed text amendments may be initiated by the City Council, the Planning Commission, the Community Development Department, any owner(s) or person(s) with an interest in the real estate in the affected district in the City.
 - (2) *Zoning district classification or boundary amendments.* Proposed zoning district classification or boundary amendments may be initiated

by the City Council, by the Planning Commission, by the Community Development Department, or by any owner(s) or person(s) with an interest in the real estate in the affected district in the City.

(c) *Procedure.*

- (1) *Pre-Application Meeting.* Prior to submission of a zoning amendment application, the applicant may meet with the Community Development staff to discuss the zoning amendment application. Through the pre-application meeting, the Community Development staff will summarize the informational requirements and issues related to the specific zoning amendment request.
- (2) When any proposed change or amendment is initiated by the Council or City staff, such request and all related information shall be referred to the City of Anoka Planning Commission for consideration.
- (3) When any proposed change or amendment is initiated by any owner(s) or persons with an interest in the real estate in the affected district in the City, an application for such amendment shall be filed in the Community Development Department. A non-refundable application fee to cover administrative costs, established from time to time by the City Council, shall accompany the application. The applicant shall also be responsible for payment of actual costs incurred by the City for legal, engineering or other professional services related to review of the zoning amendment request.
- (4) All applications shall contain the following information:
 - a. The applicant's name, address and phone number.
 - b. The suggested wording of any proposed amendment to the text of this Ordinance.
- (5) In the event that the proposed amendment would change the zoning classification or zoning district boundary, the following additional information shall be submitted:
 - a. A legal description and street address of the property proposed to be rezoned;
 - b. The name, address and phone number of the owner or owners of the property;
 - c. Evidence of ownership or an interest in the property;
 - d. The present zoning district classification and existing uses of the property proposed to be rezoned;
 - e. The area of the property proposed to be rezoned, stated in square feet or acres, or fraction thereof;
 - f. A map drawn to scale clearly showing the property proposed to be reclassified; and

- g. Materials explaining the proposed use of the property that address the criteria in subpart (h) of this Section.
 - h. If an application for a change in the boundaries of a zoning district would result in the creation of a zoning district which is inconsistent with the land use designation of the property in the comprehensive plan, the zoning amendment application must be accompanied by an application for an amendment to the comprehensive plan.
 - i. Any other information as determined by staff.
- (6) The amendment request shall be referred to the Community Development staff for a written report and recommendation to be presented to the Planning Commission.
- (7) The Planning Commission shall hold a public hearing for all zoning map amendments and text amendments. Notice of the time and place of the public hearing shall be given not more than thirty (30) days nor less than ten (10) days in advance of the public hearing by publishing a notice in the official newspaper of the City and by mailing a notice of the public hearing to the owner or owners of the property under consideration and, when an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed to all property owners within three hundred fifty (350) feet of the subject property. This notice shall describe the particular change and shall contain a description of the property. Individual notice to property owners is not required for text amendments.
- (8) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this ordinance provided a bona fide attempt to notify has been made.
- (9) The Planning Commission and City Council shall consider the following criteria when considering a change to the zoning classification or zoning district boundary:
- a. Whether the proposed amendment corrects an error or addresses a changing condition, trend or fact.
 - b. Whether the proposed amendment is consistent with the Comprehensive Plan policies.
 - c. Whether the proposed amendment will protect the health, safety and welfare of the public.
 - d. Whether the City and other service providers will be able to provide sufficient public safety, transportation and utility facilities and services to the subject property, while maintaining sufficient levels of service to existing development.
 - e. Whether the proposed rezoning will have significant adverse impacts on the natural environment, including air, water, noise, storm water management and vegetation.

- f. Whether the proposed amendment will have significant adverse impacts on other property in the vicinity of the subject tract.
 - g. The suitability of the subject property for the existing zoning classification and proposed zoning classification.
 - h. The need for the proposed use at the proposed location.
 - i. Any other criteria which reasonably relates to the application.
- (10) The Planning Commission and City Council may request additional information from the applicant if the Commission or Council deem such information would be helpful in review of the proposal.
- (11) The City Council may require a development agreement for a change in the zoning classification, zoning map or change in the zoning district boundary in those instances where an amendment may be appropriate only under conditions which will prevent traffic congestion, public safety risks, undue concentration or density of people, transportation impediments or other risks to the general public health, welfare and safety.
- (11) The City Council, upon receiving a recommendation from the Planning Commission, shall take action to either approve, deny or approve the application with conditions. The City Council shall reach a decision according to the deadlines established under Minnesota Statutes 15.99, or successor statute.
- (12) The City shall notify the applicant of the City's decision in writing.
- (d) *Consideration after Denial.* Whenever an application for an amendment under this section has been considered and denied by the City Council, a new and substantially identical application affecting the same property shall not be accepted by City staff or considered again by the Planning Commission or City Council for at least one (1) year from the date of its denial, unless, for good cause shown, the City Council, by majority vote of all its members, permits a new and substantially identical application to be processed and considered prior to the expiration of such period.

State law references--Zoning amendments, Minn. Stats. § 462.357, subds. 3, 4; time limits to approve or deny written requests relating to zoning, Minn. Stats. § 515.99.

Section 74-34.

Interim use permits.

- (a) *Purpose.* The purpose of an interim use permit is to allow a temporary use that is not designated as permitted or conditionally permitted but is acceptable for a limited period of time subject to conditions set forth in this section. An "interim use" is defined as a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. An interim use is granted to a particular individual and does not accrue to the subject property.
- (b) *Application.* Subject to the provisions of this chapter, all interim uses shall comply with the provisions of this section.

- (c) *Inspection.* The city hereby reserves the right, upon approval of an interim use, to inspect the premises in which an interim use is being conducted to ensure compliance with the provisions of this section or any additional conditions imposed.
- (d) *Violations.* After two nuisance or code violation complaints have been made and verified with written notice to the holder of the interim use permit, a public hearing may be called within 60 days of the last complaint to reconsider the interim use.
- (e) *Revocation.* An interim use permit may be revoked if (i) the property is found to be in violation of the conditions listed in the interim use permit or (ii) if access to the property for the purpose of making an inspection is refused to the zoning administrator or their designee. The same process established for granting an interim use permit shall be followed when considering revocation of an interim use permit.
- (f) *Penalty.* Violations of the interim use standards shall be subject to the enforcement and penalty provisions as contained in this chapter.
- (g) *Criteria for granting an interim use permit.* In granting an interim use permit, the Planning Commission and City Council shall consider the effect of the proposed use upon the health, safety and general welfare of occupants of surrounding properties. The Planning Commission and City Council shall consider and make findings regarding the following factors:
 - (1) The proposed use meets the applicable zoning regulations; and
 - (2) The proposed use will terminate upon a date or event that can be identified with certainty; and
 - (3) The proposed use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
 - (4) The proposed use will be subjected to, by agreement with the property owner, any conditions that the City Council deems appropriate for permission of the proposed interim use, including a condition that the owner will provide an appropriate surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use.
- (h) *Termination.* An interim use permit shall terminate upon the occurrence of any of the following events, whichever comes first:
 - (1) The date or event stated in the permit;
 - (2) The use has been discontinued for one year; or
 - (3) There is a change in ownership of the property for which the interim use permit was issued. If it is believed that a violation of the conditions of approval has occurred, the Planning Commission and City Council may take action to revoke the interim use permit through the public hearing process, including notification to the property owner of the city's intent to consider revocation the permit.

- (i) *Conditions of approval.* In permitting a new interim use permit or amending an existing interim use permit, the Planning Commission may recommend and the City Council may impose, in addition to the standards and requirements expressly specified by this section, additional conditions which the Planning Commission or City Council consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:
- (1) Increasing the required lot size or yard dimension;
 - (2) Limiting the height, size or location of buildings;
 - (3) Controlling the location and number of vehicle access points;
 - (4) Increasing the street width;
 - (5) Increasing the number of required off-street parking spaces;
 - (6) Limiting the number, size, location or lighting of signs;
 - (7) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
 - (8) Designation of open space;
 - (9) Annual review, if deemed appropriate by the city council.

Any change involving structural alterations, enlargement, intensification of use, or similar changes not specifically permitted by the interim use permit shall require an amended interim use permit and all procedures shall apply as if a new permit were being issued. The zoning administrator or their designee shall maintain a record of all interim use permits including information on the use, location and conditions imposed by the city council, time limits, review dates, and such other information as may be appropriate.

- (j) *Procedure.*
- (1) Applications for interim use permits will not be accepted from anyone who is not the owner of the land for which the application is made.
 - (2) The person applying for an interim use permit shall fill out and submit to the community development department an interim use permit application, appropriate supplementary information, and a filing fee as established by the city council.
 - (3) The community development department staff shall refer the application to the Planning Commission for review and recommendation to the city council.
 - (4) The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by Minn. Stats. § 462.357, subd. 3, as amended. The Planning Commission shall make a recommendation to the City Council to either approve or deny the request. The City Council shall take final action on the request.

- (5) The petitioner or representative shall appear before the Planning Commission in order to present information concerning the requested interim use permit.
- (6) If the Planning Commission recommends granting the proposed interim use permit, it may recommend conditions to the City Council that the commission considers necessary to protect the public health, safety and general welfare of the surrounding area along with findings supporting the recommendation to approve. If the Planning Commission recommends denial of the proposed interim use permit, it shall recommend findings in support of the denial to the city council.
- (7) An amended interim use permit application shall be administered in a manner similar to that required for an interim use permit. Requests for an amendment to an interim use permit shall include the requested changes related to the interim use and information in support of the requested changes.
- (8) No application for an interim use permit shall be resubmitted for a period of six months from such order of denial.
- (9) Where applicable, granted interim use permits shall become void if the applicant does not proceed substantially on the work within six months. To proceed substantially means to make visible improvements to the property. One or more extensions for not more than six months each may be granted by the City Council for good cause.

State law references--Interim uses, Minn. Stats. § 462.3597; time limits to approve written request relating to zoning, Minn. Stats. § 15.99.

Section 74-35.

Interim use permit for Low-Impact Office in a Residential District.

- (a) *Purpose.* The purpose of this section is to provide a mechanism to allow a change in use of residential properties to low-impact office as a way to respond to the changing market for residential properties along heavily traveled roadways. The intent in allowing low-impact office use is that the traffic generated from such use will be comparable to the residential use of the property and will not contribute to further traffic congestion or access issues. In addition, the performance standards are intended to assist in preserving the residential character of the property.
- (b) *Area of Application.* An interim use permit to allow low-impact office use in a residential district shall be limited to areas determined by the City Council.
- (c) *Performance Standards.* To grant an interim use permit for office use of a residential structure, the following performance standards must be met:
 - (1) The average daily trips (ADT) generated from office use of the property shall be equal to or less than the ADT of the permitted residential use of the property.
 - (2) Parking shall be minimized to the extent possible to minimize stormwater runoff and the impact of parking lots on the residential character of the property. Where possible, parking shall not occur in the front yard and any parking areas shall be screened from neighboring

residential properties as approved through the interim use permit process. Vegetative screening is generally preferred.

- (3) Exterior alterations or additions to the residential structure(s) shall maintain the residential character except where required to comply with State fire and building code regulations.
 - (4) No retail sales are permitted.
 - (5) Signage shall be limited to one free-standing sign no more than twenty-one (21) square feet in area and six (6) feet in height. The sign shall be located parallel to the street. The exact location of the sign shall be as approved through the Interim use Permit process.
 - (6) Hours of operation shall be limited to 7:00 a.m. to 10:00 p.m. unless otherwise approved through the interim use process.
 - (7) The owner must obtain an amendment to the interim use permit in order to change any of the conditions set forth in the interim use permit or to change the mix of uses on the property.
 - (8) The owner of the property shall obtain any necessary permits or licenses.
 - (9) The property shall be subject to annual inspection and review.
- (d) *Inspection.* The City of Anoka hereby reserves the right, upon approval of an interim use permit to allow office use of a residential structure, to inspect the premises in which such office use is being conducted to insure compliance with the provisions of this subdivision or any conditions imposed in issuance of the interim use permit.
 - (e) *Termination.* An Interim Use Permit that allows office use of a residential property shall terminate upon the following: (1) Sale of the property; (2) Conversion of the property to residential use.
 - (f) *Revocation.* An Interim Use Permit that allows office use of residential property may be revoked if (1) the property is found to be in violation of the conditions listed in the approved Interim Use Permit; or (2) if access to the property for the purpose of making an inspection is refused to the Zoning Administrator or the Zoning Administrator's designee.
 - (g) *Penalty.* Violation(s) of the performance standards set forth in this section shall be subject to the enforcement and penalty provisions as contained in this Chapter.

Section 74-36.

Interim Use Permit for Accessory Structure or Use Predating Principal Structure or Use.

- (a) *Purpose.* The purpose of this section is to provide a mechanism to allow accessory structures or uses to be established on residential lots before establishing a principal use or structure. The intent is to allow a use or structure on a vacant lot that is accessory to a principal use established on a contiguous lot. In addition, the performance standards are intended to preserve the vacant

lot for future development of a principal structure or use and to ensure the residential character of the property and structures are maintained.

- (b) *Eligibility.* An interim use permit to allow accessory structures or uses to be established on lots before establishing a principal use or structure shall be limited to vacant lots contiguous to lots that have an established residential principal use or structure and have the same property owner.
- (c) *Performance Standards.* To grant an interim use permit for an accessory structure or use as allowed under this Article, the following performance standards must be met:
 - (1) The vacant lot shall be contiguous to a lot that has an established residential principal use or structure.
 - (2) The proposed structure or use shall be accessory to the principal structure or use on the contiguous lot.
 - (3) Both lots shall be within a residential zoning district.
 - (4) The proposed accessory use and/or structure must meet all zoning, building and fire code requirements.
 - (5) The location of the proposed accessory structure or use shall not interfere with the future construction of a principal use or structure.
 - (6) Outside storage shall be prohibited.
 - (7) The accessory structure or use shall not be related to a home occupation, business, office, commercial or industrial use.
 - (8) The proposed structure shall be similar in color, style and exterior materials as surrounding residential properties.
 - (9) The owner of the property shall obtain any necessary permits or licenses.
 - (10) The property shall be subject to annual inspection and review.
- (d) *Inspection.* The City of Anoka hereby reserves the right to inspect the premises upon which an accessory use or structure established under this Subdivision is located or conducted to insure compliance with the provisions of this Subdivision or any conditions imposed in issuance of the interim use permit.
- (e) *Revocation.* An interim use permit granted under this Subdivision may be revoked when:
 - (1) The property is found to be in violation of the conditions listed in the approved interim use permit; or
 - (2) The property owner or interim use permit holder refuses access to the property for the purpose of making an inspection to the Zoning Administrator or the Zoning Administrator's designee.
- (f) *Termination.* An interim use permit granted under this Subdivision shall terminate upon the occurrence of any of the following events:

- (1) There is a change in ownership of either the lot with the accessory structure or use for which the permit was granted, or the contiguous lot with the principal structure or use; or
 - (2) A principal structure or use is established on the lot for which the permit was granted; or
 - (3) The lot is combined into one tax parcel; or
 - (4) The date or event identified in the permit; or
 - (5) The use has been discontinued for one (1) year;
- (g) *Penalty.* Violation(s) of the performance standards set forth in this section shall be subject to the enforcement and penalty provisions as contained in this Chapter.

Section 74-37.

Appeals and variances.

- (a) *Application.* Application for a variance shall be made to the Planning Department on forms provided by the City. The application shall be accompanied by the following:
 - (1) A plat or to-scale map of the property which shows, at a minimum, all lot lines, existing and proposed structures, driveways and parking areas, significant topographical features and mature trees;
 - (2) Evidence of ownership or an interest in the property;
 - (3) Documentation explaining the practical difficulties;
 - (4) The fee as required by the city code; and
 - (5) Such other information as may be required by the city to assist in review and analysis of the requested variance.

State law reference--Authority for above, Minn. Stats. § 462.354, subd. 2.

- (b) *Variances.* A variance may be granted from the requirements of this ordinance including restrictions placed on nonconformities.
 - (1) Variances shall only be considered when:
 - a. The proposed variance is in harmony with the general purpose and intent of the zoning ordinance; and
 - b. The proposed variance is consistent with the comprehensive plan.
 - c. That granting the requested variance will not alter the essential character of the neighborhood and will not confer on the applicant any special privilege that would be denied by this ordinance to other lands, structures, or buildings in the same district.

- d. That the proposed actions will be in keeping with the spirit and intent of this ordinance.
- (2) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. A variance granted under this sub-section shall also meet the standards in subpart (1) above.
 - a. Practical difficulties means:
 - 1. That the property owner proposed to use the property in a reasonable manner not permitted by this ordinance; and
 - 2. That the plight of the landowner is due to circumstances unique to the property not created by the landowners; and
 - 3. The proposed variance, if granted, will not alter the essential character of the locality.
 - b. Practical difficulties also include inadequate access to direct solar energy systems.
 - c. Economic considerations alone do not constitute practical difficulties.
- (3) Variances must be granted for:
 - a. Earth sheltered construction as defined in State law when such construction is in harmony with this ordinance (M.D. 216C.06, subd. 14)
 - b. The temporary use of a one-family dwelling as a two-family dwelling.
- (4) No variance may be granted that would allow any use that is not allowed in the zoning district in which the property is located.
- (5) The City may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by granting the variance.

State law reference--Similar provisions, Minn. Stats. § 462.357, subd. 6(3).6(1)

- (c) *Procedure.* The City Council shall decide upon requests for variances by approving or denying the same in part or in whole. The procedure for processing variances is as follows:
 - (1) *Notice to effected property owners.* Upon submission of a completed application, including all items in subsection (a) of this section, the request for a variance will be placed on the next agenda of the Planning Commission occurring after twenty one (21) days from the date of submission. The Planning Commission shall consider the application only after notice has been sent by mail to adjacent property owners as required by Minn. Stats. § 462.357, subd. 3, as amended.

- (2) *Planning Commission action.* The Planning Commission shall make a recommendation to the City Council to either approve or deny the requested variance. The recommendation shall include findings of fact in support of the Planning Commission decision. The Planning Commission may suggest the imposition of conditions in granting variances to effect the intent of this ordinance and to protect adjacent properties. The petitioner or representative may appear before the Planning Commission in order to present information or to answer questions.
 - (3) *City Council action.* The City Council, acting as the board of adjustment, may grant a variance if it has been established that practical difficulties exists. The City Council shall, on all variance applications, whether granted or denied, record findings of fact in writing that are consistent with section 74-37 and state the City Council's reasons for such action. A copy of the City Council resolution regarding final action on the request shall be mailed to the applicant.
 - (4) *Time line for action by the City.* The City Council must approve or deny the application for a variance within sixty (60) days of the City receiving all required information. The 60-day time limit starts over only if the City sends notice, within fifteen (15) business days, of receipt of the request, telling the applicant what information is missing. The city may extend the 60-day time limit before the end of the initial time limit by providing written notice of the extension to the applicant. The notification to the applicant must state the reasons for the extension and its anticipated length, which may not exceed 60 days, unless approved by the applicant. Failure of the City Council to deny an application within 60 days, without an extension, is deemed approval of the request. Findings of fact stating the reasons for either an approval or a denial must be made in writing at the time of the action.
 - (5) *Time limitations.* Unless otherwise specified by the City Council at the time it is authorized, a variance shall expire if the applicant fails to utilize such variance by initiation of construction, within one (1) year from the date of its authorization. After the variance has expired, it must be revoked by the City Council, resulting in the variance becoming null and void. The applicant and/or owner may file a written request with the Planning Department for an extension prior to the expiration of the variance. The Planning Commission shall make a recommendation to the City Council, who then may extend the deadline for initiation of construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension. Once the variance is utilized as approved, the variance becomes perpetual.
 - (6) *Specific project.* A variance shall be valid only for the reason for which it was granted. Construction of any project shall be in substantial compliance with the building plans and specifications reviewed and approved by the City Council.
- (d) *Appeals.* Any person aggrieved by an order, requirement, decision or determination first made by the Zoning Administrator may have such decision reviewed if a request for review is submitted to the Zoning Administrator within ten (10) days of the date of the decision. The appeal shall be in writing and shall

include a statement of the alleged errors or omissions. The City Council, acting as the Board of Adjustment, shall hear and decide such appeals. Upon receipt of an appeal, a hearing shall be set before the City Council and the appellant shall be notified by mail of the time and place of the meeting. The City Council may reverse or affirm or modify or in part any ruling, decision, or determination of the Zoning Administrator.

- (e) *District Court Appeals.* An aggrieved person wishing to seek review of an action pursuant to Minnesota Statute §462.361, Subdivision 1, as amended, may file an appeal with the Anoka County District Court. No appeal shall be effective unless it is served and filed within 60 days as follows: (1) For an appeal from the adoption or amendment of an ordinance, rule, or regulation, - from the effective date of the ordinance; (2) For an appeal from an order - from the issuance of the order; (3) For an appeal from any other decision governed by this Chapter and/or referenced in Minnesota Statute §462.361, Subdivision 1, as amended - from the decision of the City Council.

State law reference--Similar provisions, Minn. Stats. § 462.357, subd. 6(1).

State law reference--Time limits to approve or deny written requests relating to zoning, Minn. Stats. § 15.99.

Section 74-38.

Building permits; site plans.

- (a) Building permits shall be required as specified in the requirements set forth in the state building code which is incorporated into section 18-32.
- (b) Before building permits are issued for the development or alteration of multiple family, commercial, industrial, or non-residential structures, a site plan shall be reviewed by the Planning Commission and approved by the City Council.
- (c) Site plan review may be initiated by submitting a Planning and Zoning Application form provided by the Planning Department. Such form shall include the following:
- (1) Applicant information;
 - (2) Owner information;
 - (3) Site information (address, legal description, P.I.N.);
 - (4) Signature of owner and applicant;
 - (5) A site plan shall be included that contains the following information:
 - a. A certified site survey drawing by a registered engineer or land surveyor showing property boundaries and dimensions.
 - b. Building locations and dimensions (existing and proposed) on and within 50 feet of subject property. Also identify adjacent property land use.
 - c. Adjacent roadways and proposed entrances and exits for vehicles.
 - d. Grading plan (existing and proposed two feet or five feet topographical contours); spot elevations may be sufficient for sites of less than one-quarter acre in area with no slopes greater than 12 percent.

- e. Drainage plan (catch basins, culverts, ponding areas), indicate drainage pattern.
 - f. Parking areas (indicate type of surface, arrangement and dimension of spaces), truck loading docks and maneuvering areas, sidewalks, retaining walls, refuse storage, service areas, and other manmade features.
 - g. Landscape/Tree Preservation plan (existing significant vegetation to be removed and to remain, including street trees, by size and species; proposed trees, shrubs and ground cover by size and species). The developer is responsible for planting the street trees specified by the city forester for the boulevard areas adjacent to the parcel.
 - h. Utility plan (existing and proposed sanitary sewer, water, hydrant location, storm sewer, and electric).
 - i. Location of all easements and building and parking setbacks.
 - j. Designation of snow storage area.
 - k. Development summary indicating lot area, building square footage, lot coverage, building height, number and size of dwelling units and parking spaces provided.
 - l. In specific cases, the planner may require building elevations indicating building height and building materials (facade and roof).
- (d) Site plans shall be accompanied by such review fees as are determined by the Council.
- (e) The City Council may require a performance bond or other security, in form approved by the city attorney, to guarantee completion of any of the site plan improvements other than construction of the primary structure. Such security shall be provided prior to issuance of the building permit and shall be in an amount 1.25 times the approved estimated cost of labor and materials for the exterior site plan improvements. Failure to complete the site plan improvements within the time permitted by council shall entitle the city to the security which may be applied toward completion of the improvements, including all costs incurred by the city associated with performing or causing such work to be performed.
- (f) Conditions and Restrictions. The Planning Commission may recommend and the City Council may impose such conditions and restrictions as deemed necessary to protect the public interest and to secure compliance with the requirements of this chapter.
- (g) Administrative approval.
- (1) Site plan approval/review may be approved administratively provided that the applicant can demonstrate that all provisions of this chapter have been met and additionally comply with the following conditions:

- a. The development will not cause an increase in need for parking spaces.
 - b. The existing development is in compliance with all zoning or other regulations.
 - c. The proposed development will not change the drainage patterns.
- (2) Planning staff, in consultation with other city staff members shall notify the building inspector that the applicant meets or exceeds the city's land use and zoning requirements and may proceed with the building permit application.
- (3) Applications for administrative review may be submitted to the Planning Department and will be processed within two weeks from submittal date. Planning Staff in consultation with other appropriate city staff will determine the site plan requirements and information needed. Cost for administrative review will be as set by the city council.
- (4) Plans which do not comply with the provisions of this section and this chapter must receive Planning Commission review and City Council approval in accordance with this section.
- (5) An applicant may file an appeal to the City Council concerning the interpretation or requirements placed on the project by city staff. The appeal shall follow the public hearing process as established in subsection 74-35(c).
- (6) City staff will report annually to the Planning Commission and City Council on the number and description of administratively approved site plans.
- (h) *Time Limitations.* Unless otherwise specified by the City Council at the time it is approved, a site plan shall be valid for one (1) year to allow for the initiation of construction. If initiation of construction is not started within one (1) year, or within any extension granted hereafter, the approval shall expire. After the site plan has expired, it must be revoked by the City Council, resulting in the site plan becoming null and void. The Planning Department must notify the applicant and/or owner sixty (60) days prior to the expiration of the site plan by regular and certified mail. The applicant and/or owner may file a written request with the Planning Department for an extension prior to the expiration of the site plan. The Planning Commission shall make a recommendation to the City Council who then may extend the site plan approval for periods of not more than twelve (12) months each upon finding that:
- (1) The proposed use, or uses, is consistent with the City's Comprehensive Land Use Plan current at the time the request for an extension is considered; and,
 - (2) The project design meets the applicable City Code standards in effect at the time the request for an extension is considered, or the design is modified to satisfy those standards.

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CHAPTER 74. ZONING

ARTICLE III. Zoning Districts Established, Zoning Map

Section 74-61. **Districts enumerated.**

(a) For the purpose of this chapter, the city is hereby divided into classes of districts which shall be designated as follows:

(1) *Residence districts.* Residence districts shall be as follows:

R-F Farm Residence District.

R-1 Single-Family Residential District.

R-2 One- and Two-Family Dwellings District.

R-3 Low Density Multiple Family District.

R-4 High Density Multiple Family District.

R-5 Residential Flex District.

R-6 Mobile Home Park Residence District.

(2) *Business districts.* Business districts shall be as follows:

B-1 Highway Business District

B-2 Shopping Center Business District.

B-3 General Business District.

B-4 Limited District.

(3) *Industrial districts.* Industrial districts shall be as follows:

M-1 Light Industrial District.

M-2 General Industrial District.

(4) *Other districts.* Other districts shall be as follows:

Planned Unit Development District.

Adult Establishment District.

(b) Any landowner seeking a rezoning of real property within the City may institute appropriate proceedings by paying such fees as are determined by the Council.

State law reference--Time limits to approve or deny written requests relating to zoning, Minn. Stats. § 15.99.

Section 74-62.

Zoning map.

The location and boundaries of the districts established by this chapter are hereby set forth on the zoning map and such map is hereby made a part of this chapter, which map shall be known as the "City of Anoka Zoning Map". Such map and all notations, references and data shown thereon are hereby incorporated by reference into this chapter and shall be as much a part of it as if all were fully described in this chapter. It shall be the responsibility of the zoning administrator to maintain the map and amendments thereto shall be recorded on the zoning map within 30 days after official publication of amendments. The official zoning map shall be kept on file in the city hall.

Section 74-63.

District boundaries.

The boundaries between districts are, unless otherwise indicated, either the centerlines of streets, alleys or railroad rights-of-way, or such lines extended or lines parallel or perpendicular thereto. Where figures are shown on the zoning map between a street and a district boundary line, they indicate that the district boundary line runs parallel to the street line at a distance there from equivalent to the number of feet so indicated, unless otherwise indicated.

Section 74-64.

Classification of annexed land.

Any land annexed to the City in the future shall be placed in the R-F, farm residence district, until placed in another district by action of the City Council after recommendation of the City Planning Commission.

Section 74-65.

Official Maps.

- (a) Intent and Purpose. It is the intent of the City Council to establish an Official Map for the purpose of showing lands and facilities identified for future public facilities. For purposes of this ordinance, "public facilities" is defined as streets, alleys, curbs, gutters, pedestrian ways including sidewalks and trails, medians, street-lighting systems, traffic control systems, drainage facilities, storm water management systems, fire hydrants, open space improvements and other miscellaneous improvements to be owned by a public entity that are required to be constructed and accepted within public rights-of-way or public easement. Public improvements may also include the dedication and construction of park facilities to be accepted by the City.

It is the purpose of this section of the ordinance to provide a uniform procedure for the proper use of official maps as authorized by the Minnesota Statutes, § 462.351 to §462.36.

- (b) Official Map Defined. "Official map" as used in this ordinance means a map adopted in accordance with this ordinance showing existing streets, proposed future streets, and the area needed for widening of existing streets within the City. An official map may also show the location of existing and future land and facilities within the City. An official map may cover the entire City or any portion of the City.
- (c) Initiation of Proceedings. Proceedings for adoption, amendment, or repeal of an official map or any part thereof may be initiated by (1) the City's Planning Department; (2) a recommendation of the Planning Commission; or (3) by action of the City Council.

- (d) Reference to the Planning Commission. Every proposed official map or change in a map shall be referred to the Planning Commission to hold a public hearing and to make recommendation thereon. Such recommendation shall be submitted to the City Council along with the report of the Commission on the effect of the proposal on the comprehensive plan of the City. The City Council shall take final action to approve or deny the request.
- (e) Notice and Hearing.
1. Notice. A notice of the time, place and purpose of the hearing and a description of the property to be included in the official map shall be published in the official newspaper once, at least ten (10) days prior to the date of the hearing. At least ten (10) days prior to the hearing, the City shall also mail a copy of the notice to each land owner situated with or abutting the area shown on the official map. For purposes of this notice, the owners shall be determined by the records of the City Assessor and the notice shall be addressed to the last know address as shown in the assessor's records. Failure to serve any such notices shall not invalidate the proceedings.
 2. Hearing. At the time and place specified in the notice, the Planning Commission shall hear evidence and arguments concerning the proposal. The hearing may be continued from time to time without further notice.
- (f) Preparation and Filing of Maps. The official map or maps shall be prepared in sufficient detail to permit the establishment of future acquisition lines on the ground. In unplatted areas a minimum of a centerline survey shall be 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. After enactment of any ordinance adopting an official map or amending or repealing a previous map amendment, a certified copy of the official map or section to which the ordinance relates together with an attached copy of the ordinance shall be filed with the Anoka County Recorder.
- (g) Effect. After an official map has been adopted and filed, the issuance of building permits by the City shall be subject to the provisions of this ordinance. The City shall deny every application for a permit to construct a new building or structure or expand an existing building or structure within any area designated on the official map for street or other public purposes. Whenever any street or highway is widened or improved or any new street is opened, or any interest in land for other public purposes is acquired by the City, the City is not required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit within the limits of the mapped street or outside of any building line that may have been established upon the existing street or within any area thus identified for public purposes. The adoption of the official maps does not give the City any right, title or interest in the areas identified for public purposes thereon, but the adoption of the map does authorize the City to acquire such interest without paying compensation for buildings or structures erected in such areas without a permit or in violation of the conditions of a permit.
- (h) Appeals. Whenever a building permit is denied pursuant to this ordinance, an administrative law judge may, upon appeal filed with it by the owner of the land, grant a building permit in an area designated on the official map for a street or

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other public purpose in any case in which the administrative law judge finds, upon the evidence and arguments presented to them:

1. That the entire property of the appellant of which the area designated for public purposes forms a part cannot yield a reasonable return to the owner unless such building permit is granted; and
2. That balancing the interest of the City in preserving the integrity of the official map and of the comprehensive plan and the interest of the owner in the use of said property and in the benefits of ownership, the grant of such permit is required by considerations of justice and equity.

If the administrative law judge authorizes issuance of a building permit, the City shall have six (6) months from the date of the Council decision to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the City shall issue the building permit if the application otherwise conforms to the City Code.

- (i) A penalty section is already included in the city code and does not need to be repeated in this section.

Secs. 74-66--74-90.

Reserved.

CHAPTER 74. ZONING

ARTICLE IV. **Conditional Uses***

***State law reference--**Conditional uses, Minn. Stats. § 462.3595.

DIVISION 1. **Generally.**

Section 74-91. **Definition.**

Conditional uses are those uses authorized by this chapter which require special planning consideration due to traffic circulation and access needs or impacts, operational characteristics, proximity to other similar uses, impact on neighboring property, etc., and which therefore need special conditions imposed to establish or control these factors in order to protect the public health, safety and welfare and to assure compliance and harmony with the comprehensive plan of the City.

Cross reference--Definitions generally, § 1-2.

Secs. 74-92--74-110. **Reserved.**

CHAPTER 74. ZONING

ARTICLE IV. Conditional Uses

DIVISION 2. Permit.

Section 74-111. Situations for issuing.

Conditional use permits may be issued for any of the following:

- (a) Any of the uses or purposes for which such permits are required or permitted by the provisions of this chapter.
- (b) Public utility or public service uses or public building in any district when found to be necessary for the public health, safety, convenience or welfare.
- (c) Commercial excavating of natural materials used for building or construction purposes, in any district, as regulated in Division 3 of this Article.
- (d) To classify as a conforming use any nonconforming institutional use existing in any district at the time of the establishment of such district.
- (e) To allow more than one (1) principle building on a lot.

Section 74-112. Application.

- (a) Application for the issuance of a conditional use permit shall be made in writing to the City Planning Department; however, any proceedings to classify certain uses as conforming uses may be initiated either by such application or by the City Council or by the City Planning Commission. An application for a conditional use permit shall be accompanied by payment of a fee as determined by the Council in addition to the regular building permit fee, if any.
- (b) Site plan and supplementary graphic or written material shall be provided with the application, containing the following information:
 - (1) Name and address of project/development.
 - (2) Location map, including area within one-half mile of the site.
 - (3) Name and mailing address of developer/owner and engineer/architect.
 - (4) Date of plan preparation.
 - (5) Scale and a north point indicator.
 - (6) Boundary line of property with their dimensions.
 - (7) Location, identification and dimensions of existing and proposed:
 - a. Topographic contours of minimum intervals of two feet.
 - b. Adjacent streets and on-street right-of-way.

- c. On-site streets and street right-of-way.
 - d. All utility and utility right-of-way easements.
 - e. Lighting plan, showing the lighting of parking areas, walks, security lights and driveway entrance lights.
 - f. Building and structures, including:
 - 1. Elevation drawings of all proposed buildings and structures with dimensions.
 - 2. Elevation, height above mean sea level of all floors and roofs, when structure is sited in an area prone to flooding as determined by the city engineer.
 - 3. Gross square footage of existing and proposed buildings and structures.
 - 4. Exterior finish materials.
 - 5. Type of business, proposed number of employees, and times of operations.
 - g. All parking facilities.
 - h. Water bodies and drainage ditches.
 - i. Fences and retaining walls.
 - j. Landscape plan, showing size and species of each planting.
 - k. On and off site traffic flow.
 - l. Parking plan.
- (8) Site statistics including square footage, percentage of coverage, dwelling unit density, and percentage of park or open space.
- (9) Additional or lesser information may be required by the zoning administrator in particular cases.

Section 74-113.

Planning Commission hearing.

The City Planning Commission shall hold a public hearing after giving notice of such hearing in the manner provided by law.

Section 74-114.

General and special requirements.

- (a) The Planning Commission shall consider to what extent the applicant's plan minimizes possible adverse effects of the proposed conditional use, what modifications to the plan and what conditions of approval could further minimize the adverse effects of the proposed use. The following development standards shall be considered general requirements for all conditional use permits except as hereinafter provided:

- (1) The land area and setback requirements of the property containing such a use or activity meet the minimums established for the district.
 - (2) When abutting a residential use, the property shall be screened and landscaped.
 - (3) Where applicable, all city, county, state and federal laws, regulations and ordinances shall be complied with and all necessary permits secured.
 - (4) Signs shall not adversely impact adjoining or surrounding residential uses.
 - (5) Adequate off-road parking and loading shall be provided. Such parking and loading shall be screened and landscaped from abutting residential uses.
 - (6) The road serving the use or activity must be of sufficient design to accommodate the proposed use or activity, and such use or activity shall not generate such additional extra traffic as to create a nuisance or hazard to existing traffic or to surrounding land use.
 - (7) All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced or grassed to control dust and drainage.
 - (8) All open and outdoor storage, sales and service areas shall be screened from view from public streets and from abutting residential uses or districts.
 - (9) All lighting shall be designed to prevent any direct source of light being visible from adjacent residential areas or from the public streets.
 - (10) The use or activity shall be properly drained to control surface water runoff.
 - (11) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.
 - (12) The proposed water, sewer and other utilities shall be capable of accommodating the proposed use.
- (b) These standards shall be strictly applied unless the City Council finds in the particular case that the community safety, health and welfare can as well or better be served by modifying them. Any special requirements applicable to the particular case which are imposed elsewhere in this chapter shall be met in each case.

Section 74-115.

Planning commission recommendation.

Following the hearing, the City Planning Commission shall recommend to the City Council whatever action it deems advisable, including all recommended conditions on the granting of the conditional use permit.

Section 74-116.

Action by the City Council.

In considering applications for conditional use permits, the City Council shall consider the advice and recommendations of the City Planning Commission and the effect of the proposed use upon the health, safety, morals, comfort, convenience and welfare of the occupants of the surrounding lands, existing and anticipated traffic conditions, including parking facilities on adjacent sites. The City Council may hold whatever public hearings it deems advisable or may return the application to the Planning Commission for further consideration.

- (a) *Approval.* If it is determined that the general and special requirements of this chapter will be satisfied by applicant's plan, the Council, by resolution, may grant such permit and may impose conditions relating to the general and special requirements in each case.
- (b) *Denial.* Conditional use permits may be denied by resolution of the City Council. Such resolution shall state the reasons for denial, but may incorporate by reference the minutes and recommendations of the Planning Commission, staff reports, hearing testimony and any other material relevant to the Council's decision.

State law reference--Time limits to approve or deny written requests relating to zoning, Minn. Stats. § 15.99.

Section 74-117.

Termination.

A conditional use permit may be revoked by resolution of the City Council if:

- (a) Initiation of construction or use has not commenced upon the subject property within one (1) year or alternative date set by the City Council. Time shall be calculated as beginning on the day the conditional use permit was approved by the City Council;
- (b) An existing conditional use ceases operation for a period of one (1) year. Time shall be calculated as beginning on the day following the last day in which the use was in normal operation;
- (c) The conditional use is being operated and maintained in a manner that violates any City, State or Federal ordinances, statutes, rules or laws, and/or does not comply with any conditions of approval of the conditional use permit; or
- (d) The use of the property changes to a permitted or different conditional use in that district.

The City Planning Commission shall hold a public hearing prior to the City Council action, after giving notice of such hearing in the manner provided by law and sending the property owner notification of the public hearing via registered mail.

Section 74-118.

Performance bond.

The City Council may require a performance bond or other security, in form approved by the City attorney, to guarantee performance of the conditions in any case where such performance is not otherwise guaranteed. Such security shall be provided prior to the issuance of building permits or initiation of work on the proposed improvements or

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development and shall be in an amount 1.25 times the approved estimated costs of labor and materials for the proposed improvements or development.

Secs. 74-119--74-135. Reserved.

CHAPTER 74. ZONING

ARTICLE IV. Conditional Uses

DIVISION 3. Permits for Commercial Excavations

Section 74-136. Definitions.

Unless otherwise indicated, words used in this section shall be considered as used with their ordinary meaning, but all definitions contained in this chapter shall be applicable in this division, particularly with reference to mining and soil processing.

Excavation means any artificial excavation of the earth, dug, excavated, or made by the removal from the natural surface of the earth of soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth, of 500 cubic yards or more.

Land reclamation means the deposition of 500 cubic yards or more of earth materials on a site in such manner as to elevate the grade.

Section 74-137. When required; renewal.

- (a) Excavation, deposition and processing of natural earth products regulated in this division shall be permitted only upon issuance of a conditional use permit as provided for in division 2 of this article. The conditional use permit shall be renewed the first January after issuance and every January thereafter for operations to occur beyond the first renewal period. Only that information in the application which is changed from the previous application is required for the annual renewal.
- (b) Conditional use permits may be issued for commercial excavating of natural materials used for building or construction purposes, in any district, subject to the standards and conditions hereinafter set forth. Such permits are required for the purpose of:
 - (1) Establishing reasonable and uniform standards and review procedures in the extraction, deposition and processing of sand, gravel, soil, rock and other natural earth products or the impounding of waters;
 - (2) Controlling noise, dust, hazards, effects on adjacent property and other related adverse factors in the extraction, deposition and processing of sand, gravel, soil, rock and other natural earth products or the impounding of waters;
 - (3) Providing for the restoration of sites in the extraction, deposition and processing of sand, gravel, soil, rock and other natural earth products or the impounding of waters.
- (c) A permit under this division will not be required for the following:
 - (1) The excavation, removal or storage of rock, sand, dirt, gravel, clay or other material preparatory to construction of a building thereon pursuant to a duly issued building permit;

- (2) Moving dirt for construction of roads or to provide for surface water drainage as provided on an approved plat;
- (3) Moving dirt for landscaping purposes on a lot already occupied by a residential structure;
- (4) Excavation or dirt removal incidental to construction of sewer and water mains, highway construction or other public projects;
- (5) Minor agricultural excavation or storage or minor conservation work.

Section 74-138. Application.

- (a) Application for a conditional use permit for excavation, deposition, or processing in accordance with this section shall follow the procedure established for conditional use permits in Division 2 of this Article.
- (b) The applicant shall furnish such information as is required by Division 2 of this Article, and additionally shall include:
 - (1) The true name and address of the applicant, and/or owner of the property under construction.
 - (2) The period of time for which the operation is estimated to continue.
 - (3) A full description of the total parcel and the specific area of the parcel in which the applicant intends to conduct the activities for which the permit is requested.
 - (4) The purpose of proposed excavation, deposition or processing.
 - (5) The estimated quantity of materials to be excavated, extracted, removed from or deposited on the area for which the permit is requested.
 - (6) The long range re-use plans of the applicant for the future development of the area for which the permit is requested.
 - (7) The location of public road access and egress to and from the excavation or deposition site and the anticipated primary routing of all vehicles hauling extracted material within one-half mile of the site.
 - (8) The topography in the area for which the proposed permit applies. The required surveys shall be prepared by a registered land surveyor or engineer, shall be drawn to a scale of not more than 100 feet to an inch and shall be drawn with contour intervals of not more than two feet and/or cross section maps on a grid that will accurately show the configuration of the site:
 - a. As it exists at the time of application;
 - b. As it will appear at the end of the one year permit; and
 - c. As it will exist upon completion of the operation.

- (9) Plans for the following shall be submitted indicating how the items shall be established, constructed or provided for at the site.
 - a. A source of water, disposal of water and re-use of water.
 - b. Test results indicating the exact nature and source of the materials to be extracted, stored, processed or used for fill.
 - c. Plans for drainage, erosion control, sedimentation control and dust control.
- (10) A comprehensive re-use plan showing that suitable provision will be made for the restoration of the area so that it will not become a health or safety hazard or a nuisance. Such plan shall include the final elevations, slopes and a plan for the replacement of subsoil and topsoil. Where the City deems it practical and necessary, such plans shall include adjoining related areas where excavations have previously been made and remain under the control of the owner of the land on which the excavation is to be done or under the control of the person or party to do the excavating.

Section 74-139. Special Requirements.

- (a) Excavations made to a water producing depth must meet the following requirements:
 - (1) The depth must be such that a permanent water body will be established.
 - (2) All banks shall be sloped to the water line at a slope which shall not be steeper than three feet horizontal to one foot vertical.
 - (3) All banks shall be sodded or surfaced with a soil of quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three inches; or approved rip-rapping, where applicable.
 - (4) Such topsoil as required shall be planted with trees, shrubs, legumes, or grasses upon the parts of such area where revegetation is possible.
- (b) Excavations not made to a water-producing depth must be graded or backfilled and shall meet the following requirements:
 - (1) Such grading or backfilling shall be made with non-noxious, nonflammable, noncombustible solids.
 - (2) The graded or backfilled area shall not collect and permit stagnant water to remain there; unless ponding areas are created as part of the re-use plan with a specific function proposed.
 - (3) The peaks and depressions of the area shall be reduced to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding; and which will minimize erosion due to rainfall.

- (4) Such graded or backfilled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three inches.
- (5) Such topsoil as required in subsection (b)(4) of this section shall be planted with trees, shrubs, legumes or grasses upon the parts of such area where revegetation is possible.

Section 74-140.

Conditions of Permit.

Prior to the granting of a permit or after a permit has been granted, in addition to the special requirements enumerated in this Article, the Council may require the applicant to whom such permit is issued or the owner or user of the property on which the excavation, deposition, processing or impounding of waters are located, to:

- (a) *Fences:* Properly fence any pit or excavation;
- (b) *Slopes:* Slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from caving or sliding banks;
- (c) *Drainage:* Properly drain, fill or level any pit or excavation, after created, so as to make the pit or excavation safe and healthful as the City Council shall determine;
- (d) *Containment:* Keep any excavation, deposition, or impounded waters within the limits for which the particular permit is granted;
- (e) *Transporting materials:* Transport material to, from and within one-half mile of the excavation or deposition site, only upon and along such highways, streets or other public ways as the City Council shall order and direct;
- (f) *Impounded waters:* Provide, for the purpose of retaining impounded water, a container of sufficient strength and durability and maintain such container in safe and proper condition;
- (g) *Crushing:* Conduct no activities of crushing gravel, rocks or any other materials or substances without first receiving the expressed consent of the City Council;
- (h) *Hours of operation:* All operations shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., except in the case of public emergency such as floods or whenever any reasonable or necessary repairs to equipment are required to be made;
- (i) *Setback:* Extraction and processing shall not be conducted closer than 50 feet to the boundary of any parcel on which such operations are in process, unless the adjoining parcel is owned or under the control of the mining operator. Excavation and processing shall not be made closer than 50 feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be conducted within such limits in order to reduce the elevations thereof in conformity to the existing or platted street, road, or highway.
- (j) *Noise:* All equipment used for excavation and reclamation and processing shall be constructed, maintained and operated in such manner as to eliminate, as far as

is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity. The use of explosives shall require specific City approval, upon reasonable conditions.

- (k) *Dust and dirt:* All equipment shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, dust conditions which are injurious or substantially annoying to persons living in the vicinity. All operations shall meet the standards of the state pollution control agency. All access roads on the site operating to public highways, roads, or streets or to adjoining property shall be paved, treated or watered as far as is practicable, so as to minimize dust conditions.
- (l) *Progress surveys:* Prepare and submit progress surveys of current ground elevations, upon the request of the City Council.
- (m) *Inspection:* At all reasonable times permit the City Manager or any designee of the City Manager to enter upon any premises, for which an application is pending or issued, for the purpose of making inspection to enforce this chapter.
- (n) *Bond:* Post a surety bond, in such form and sum as the City Council may require, conditioned to pay the City:
 - (1) The cost and expense of repairing any highways, streets, or other public ways within the City made necessary by the special burden resulting from hauling and transporting thereon by the applicant in the removal of rock, sand, dirt, gravel, clay or other like material;
 - (2) The cost and expense expended by the City, in case of abandonment or failure to complete the project specified by the permit, for returning the site to a safe and usable condition, and further, to comply with all the requirements of this section and the particular permit;
 - (3) To save the City free and harmless from any and all suits or claims for damages resulting from the negligent excavation, removal or storage of rock, sand, dirt, gravel, clay or other like materials with the City;
 - (4) Applicant shall fulfill such other requirements as the City Council shall from time to time deem proper and necessary for the protection of the citizens and the general welfare; and
 - (5) Applicant shall secure required permits from other involved agencies prior to commencing operation under the terms of this chapter.

Section 74-141.

Records.

Accurate weekly records of site operations shall be maintained. Volume of materials in tons or cubic yards shall be recorded in a manner acceptable to the City and shall include the type of materials extracted, processed or deposited. These records shall be available at all times for review and inspection by the City.

Sections 74-142 – 74-160.

Reserved.

CHAPTER 74. ZONING

ARTICLE IV. Conditional Uses

DIVISION 4. Miscellaneous Conditional Use Permits

Section 74-161. Moving of Buildings.

- (a) *Generally.* It is unlawful for any person to move a building within the City without first obtaining a conditional use permit. Prior to submission of a request for a conditional use permit to the planning commission and City Council, the building inspector must certify compliance with the following:
- (1) The building, after being moved, must be worth at least 50 percent of the cost of a similar new building.
 - (2) The City Manager or his designee has certified that all sewer, water, and electric bills against the property on which the building is currently located are paid, that all sewer connections have been plugged, all water connections have been disconnected, and all taxes against the property are paid in full, if the site is located in the City.
 - (3) The building to be moved complies in all respects with the building code, this chapter, and all other applicable ordinances. The owner of the building to be moved must submit detailed plans showing changes that will be made to the building to the building inspector for review and approval.
 - (4) The building to be moved is structurally safe to move without endangering persons or property in the City.
- (b) *Application for a conditional use permit.* A person seeking issuance of a moving permit must first file an application for a conditional use permit to the Planning Director. The application must include the following:
- (1) A certificate from the building inspector that the building or structure meets the requirements of the building code.
 - (2) The legal description of the premises from which the building is to be moved.
 - (3) The legal description of the premises to which the building will be moved.
 - (4) A certificate of survey from a registered land surveyor showing the proposed location of the building on the premises to which the building will be moved.
 - (5) A rendering showing the proposed:
 - a. Grade and elevation as it relates to adjacent lots;
 - b. Elevation of the first floor; and
 - c. Drainage and fill requirements.

- (6) Photos showing:
 - a. All sides of the building or structure; and
 - b. The proposed building location.
 - (7) The highways, streets, and other property over which the building is proposed to be moved.
 - (8) Evidence that the applicant has no charges or fees owing to the City and that all taxes and other charges against the lot to which, and from which, the building is to be moved are currently paid, if the lot or lots are located in the City.
 - (9) Evidence, such as a bill of sale, showing that the applicant is entitled to move the building.
 - (10) The application fee as established by the City Council.
 - (11) A bond, letter of credit, or certified check from the property owner for \$5,000.00, payable to the City, to insure that the structure is properly removed from the former property, located on the proposed property, and attached to the foundation in compliance with the permit, building code, and this chapter.
 - (12) Any additional information requested by the City necessary to review the conditional use permit request.
- (c) *Conditional use permit approval.* In reviewing a request for a conditional use permit to allow the moving of a structure, the Planning Commission and City Council shall determine that the following conditions are met:
- (1) That the structure will, in the new location, conform to the general neighborhood character. The following is a nonexclusive list of factors to be considered in determining neighborhood compatibility.
 - a. The main entry feature (which should not be the garage door) is prominently placed on the elevation facing the street.
 - b. A linear, repetitive streetscape appearance and building facades are avoided by providing variation between the front elevations or through landscaping.
 - c. Front yard landscaping plans are submitted and approved and will be completed as part of the project.
 - d. The structure is compatible in scale, mass, form and color with adjacent structures and the pattern of the surrounding area.
 - e. The actual or apparent height of the structure has been considered in relation to adjoining structures. This is especially applicable where buildings are located very close to each other.

- f. The structure is architecturally compatible.
- (2) Placement of the structure, as well as the structure itself, conforms to all City Codes and ordinances.
- (d) *Denial.* The City Council may refuse to issue a conditional use permit to allow the moving of a building into the City if the Council finds that:
 - (1) Any requirement of any fee or deposit requirement has not been met.
 - (2) The building is too large to move, or that no routes are available to be used, without endangering persons or property or seriously inconveniencing traffic in the City.
 - (3) The proposed route includes use of private property, and no consent from the owner has been obtained.
 - (4) For any reasons, persons or property in the City would be endangered by the moving of a building.

Sections 74-162—74-190.

Reserved.

CHAPTER 74. ZONING

ARTICLE V. District Regulations

DIVISION 1. Generally

Section 74-191. Uses and activities restricted to specific districts.

Notwithstanding any other provisions of this chapter:

- (a) *Charitable gaming.* Establishments in which charitable gambling has been licensed by the State, pursuant to Minnesota Statutes Chapter 349, shall not be located in a residential district.

Section 74-192. Planned unit developments.

- (a) *Application and short name.*

- (1) *Application.* This section shall apply to planned unit development zoning districts.

- (2) *Short name.* The term "planned unit development" may be referred to as PUD in this Code.

- (b) *Purpose and intent.* Planned unit development districts are designed to achieve the following purposes:

- (1) To provide for various types and combinations of land uses that take advantage of large-scale site planning.

- (2) To allow diversification of land uses as they relate to each other in a physical and environmental arrangement, while insuring compliance with the provision of this Code.

- (3) To encourage and permit unified planning to achieve a compatible mixture and variety of land uses within the planned unit development district and with the existing and anticipated development in the surrounding area.

- (4) To promote economical and efficient land use, an improved level of amenities, appropriate and harmonious variety, creative design and sensitivity to the natural environment. Planned unit development districts may be established where tracts suitable in location, area, and character will be planned and developed on a unified basis. Suitability of tracts for the development proposed shall be determined with reference to the existing and prospective character of surrounding development.

- (5) The procedures established in this section are intended as a substitute for strict application of the underlying zoning district standards in recognition of the fact that traditional density, bulk, spacing and use regulations, may impose inappropriate and unduly rigid restrictions upon the development or redevelopment of parcels which lend themselves to an individual, planned approach. In addition, a

development plan should be designed to ensure that the following general goals will be achieved:

- a. The design of the proposed development promotes achievement of the stated purposes of the City community plan (comprehensive plan);
- b. The proposed development efficiently utilizes the available land while protecting and preserving the natural features;
- c. The proposed development provides for harmonious and coherent site and building design that creates a sense of place;
- d. The proposed development provides greater densities and variety in the type of environments available to City residents; and
- e. The proposed development provides transitions in land use in keeping with the character of adjacent land uses.

(c) *Definitions.* The following definitions shall apply to planned unit developments:

Density means the number of residential dwelling units per acre.

Dwelling unit means one or more rooms in a dwelling designed for occupancy by one family for living purposes and having its own permanently installed cooking and sanitary facilities.

Dwelling, attached (group, row or townhouse) means a dwelling joined to one or more other dwellings by a party wall or walls.

Dwelling, detached means a dwelling unit entirely surrounded by open space.

Integrated design means a harmonious selection of uses in groupings of buildings, services, parking areas, traffic and pedestrian circulation and open spaces, all planned and designed as an integrated unit.

Intensity means the extent of development considering such factors as land coverage by buildings, the number of stories, the floor area ratio, the bulk of the buildings, the proximity of buildings on a site in relation to each other, etc.

Planned commercial development (PCD) means a planned development to accommodate retail, service, commercial, or office uses, or a combination of such uses, and appurtenant common areas and accessory uses incidental to the predominant uses.

Planned development means an area of a minimum contiguous size, as specified by ordinance, to be planned, developed, operated, and maintained according to plan as a single entity and containing one or more structures with appurtenant common areas.

Planned industrial development (PID) means a planned development consisting of primarily of industrial uses, but may include retail service uses as well as recreational facilities to accommodate the work force.

Planned residential development (PRD) means a planned development containing one or more residential structures or planned unit residential clusters; appropriate commercial, public, or quasi-public uses may be included if such uses are primarily for the benefit of the residential development.

Planned transit-oriented development (PTOD) means a planned development containing one or more residential clusters and one or more areas of retail, service and office uses or industrial uses or a combination of such uses designed to accommodate area mass transit services and including appurtenant common areas and accessory uses incidental to the predominant uses.

Planned unit development (PUD) means an area of minimum contiguous size, as specified by ordinance, to be planned, developed, operated, and maintained as a single entity and containing one or more residential clusters or planned unit residential developments or one or more public, quasi-public, commercial, or industrial areas in such ranges or ratios of nonresidential uses to residential uses as specified in the ordinance.

Open space, common means land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guests and may include such complementary structures and improvements as are necessary and appropriate.

Open space, private means common open space, the use of which is normally limited to the occupants of a single dwelling or building or property.

Open space, public means open space dedicated to the City and maintained by it for the use and enjoyment of the general public.

Original district means the zoning district from which land is proposed to be rezoned to a planned unit development.

Street, private means a street on the interior of a development which is jointly owned, constructed and maintained by the developer or homeowner's association, is designed and constructed in conformance with the specifications determined by the City engineer, and is not an essential part of the circulation plan of the City.

Street, public means a street which is dedicated to and maintained by the City.

Unified control means property in single ownership or under the management and supervision of a central authority, or otherwise subject to such long-term leases or other ownership controls as the Council deems necessary.

(d) *General regulations.*

- (1) *Effect of planned unit development district approval.* Approval of a planned unit development district shall constitute an amendment to the zoning map. PUD approval affecting lands within the Mississippi River Critical Area Corridor or the Rum River Management District is contingent upon approval by the Department of Natural Resources in accordance with legal procedures. Designation of a property as one of the types of planned unit development districts in accordance with an approved development plan shall supersede all existing overlay districts

such as the Mississippi River Critical Area Corridor, the Rum River management District, the Floodplain Management District, or the Shoreland Management District. Such property shall, for zoning purposes, be identified by the letters for the appropriate planned unit development district, followed by an identifying number.

- (2) *Departure from original zoning district regulations.* Except for lands within the Mississippi River Critical Area Corridor, the Rum River Management District, the Floodplain Management District, or a Shoreland Management District, the various zoning regulations and requirements (e.g. use, building setback, height, etc.) which may apply to the original zoning district may be considered as guidelines only and may be departed from in the approval of a planned unit development. More restrictive zoning regulations and requirements for the lands within the Mississippi River Critical Area Corridor, the Rum River Management District, the Floodplain Management District, or the Shoreland Management District shall apply, except as approved by the Department of Natural Resources.
 - (3) *Design and unified control.* All planned unit developments shall include integrated design and shall be developed under unified control.
 - (4) *Coordination with subdivision regulations.* Subdivision review of this Code shall be carried out simultaneously with review of a proposed planned unit development.
 - (5) *Minimum district area.* Planning unit development districts (PCD, PID, PRD, PTOD), which may consist of a parcel or contiguous parcels of land, will not be less than two acres in size. Tracts of less than two acres shall be approved only if the Applicant can demonstrate that a project of superior design can be achieved or that greater compliance with comprehensive plan goals and policies or adopted master plans can be attained through the creation of a PUD district.
 - (6) *Uses and densities permitted.* The development plan shall specify, both for the project as a whole and/or for subareas within the project, those principal and accessory uses and development densities that are to be permitted. The City Council may include or exclude uses from the development plan or include uses with attached conditions as determined appropriate to achieve the intent of this section. In making the determination of the uses and development densities to be permitted within the planned unit development district, the Council shall consider the compatibility and relationship of uses within the project, the compatibility and relationship of permitted uses adjoining or in proximity to the planned unit development district, the appropriateness of permitted uses for the area in general and their overall impact on the community, and the consistency of the permitted uses with the City community plan and other adopted plans and policies.
- (e) *Planned unit development districts and allowable uses.*
- (1) *Establishment of planned unit development districts.* The following table denotes the types of planned unit development districts, the abbreviations for such planned unit development districts, and the allowable uses within each planned unit development district:

PUD Districts	Abbreviations	Allowable Uses
Planned Commercial District	PCD	Retail uses listed in the B-1, B-2, B-3, and B-4 district standards
Planned Industrial District	PID	Industrial uses listed in the M-1 district standards.
Planned Residential District	PRD	Single-family attached or detached dwellings, duplexes, townhomes, condos, apartments, and assisted and independent living facilities.
Planned Transit Oriented District	PTOD	Small lot, single-family attached or detached dwellings; townhomes, duplexes, condos, and apartments; assisted or independent living facilities and child daycare service; and local retail, civic uses, offices with high employee/acre ratio, park and ride facilities, public gathering spaces, on-street transit stops, and sheltered bus stops.

- (2) *Mixed land uses.* Uses other than the allowable uses listed in subsection (e)(1) of this section are permitted in a planned unit development district, provided that:

a. The use is one that is authorized in one of the four types of planned unit development districts; and

b. Such additional use shall not occupy more than one-third of the area within the planned unit development.

(f) *Planned unit development concept proposal statement.* Any person requesting to establish a planned unit development district shall first submit a planned unit development concept statement to the planning director. The purpose of the planned unit development concept proposal statement is to afford such person an opportunity to have the general feasibility of a planned unit development proposal informally reviewed by the City, without incurring substantial expense.

(1) *Required information.* A planned unit development concept proposal statement shall provide the following information:

a. Name and address of persons requesting establishment of the planned unit development district;

b. An original and six copies of the sketch plan which identifies the location and delineates the boundary line of the proposed planned unit development district;

c. A detailed written description of the proposed planned unit development, which includes project funding and the planning objectives to be achieved;

d. Conceptual schematic drawings of the proposed planned unit development;

e. Anticipated development timing for each stage of development; and

f. Any additional information that would help the City determine the feasibility of the proposed planned unit development.

(2) *Response to the planned unit development concept proposal statement.* Within 20 days after receiving a completed planned unit development concept proposal statement, the planning director shall produce a written response to such statement which may include comments and/or recommendations. A planned unit development application may proceed only after a response has been submitted to the applicant. Acceptance of, or response to, the planned unit development concept proposal by the planning director, shall not constitute, approval of the planned unit development application, planned unit development rezoning, final development plan, or related approvals.

(g) *Planned unit development application.*

(1) *Required materials.* Upon completion of the required actions in subsection (f) of this section, the applicant for a planned unit development shall submit an original and six copies of the application materials outlined in this subdivision.

- a. *Materials related to rezoning.* Consistent with this chapter, the applicant shall submit an application and all related materials to support a rezoning from the original district to one of the four types of planned unit development districts.
- b. *Subdivision materials.* If the land within a planned unit development is to be platted, replatted, or subdivided, the applicant shall submit an application and all related materials for review of a subdivision consistent with chapter 54 of this Code.
- c. *Ownership.* A tract of land to be developed as a planned unit development shall be under the control of:
 1. A single owner; or
 2. A group of landowners where each owner agrees in advance to be bound by the conditions and regulations which will be effective within the district and to record such covenants, easements and other provisions with the county recorder/registrar of titles.
- d. *Project identification materials.* The following information shall be submitted in regard to project identification:
 1. A list identifying all current owners, legal and equitable, of land or improvements within the proposed planned unit development;
 2. A list identifying all proposed owners, legal and equitable, of land or improvements within the proposed planned unit development;
 3. A list identifying all developers and parties involved in the development; and
 4. Additional information as identified by the planning director.
- e. *Preliminary plan submission materials.* The following materials shall be submitted:
 1. A site plan indicating the following:
 - i. The boundaries, dimensions, and area of the proposed planned unit development district;
 - ii. The location, dimensions, and gross floor area of proposed structures;
 - iii. The proposed land uses for each parcel and each building, the amount of floor area devoted for each use, and all areas to be designated for mixed land uses;

- iv. The location, arrangement, and number of parking spaces, loading facilities, and mass transit facilities including bus turnouts and shelters;
 - v. The location and dimension of all curb cuts and driveways, and their relationship to all existing and proposed public streets; and
 - vi. The proposed location, design, and dimension of pedestrian and bicycle facilities, walks, skyways, plazas, courts or other related areas.
2. Preliminary building plans, elevations, and general specifications of materials, and unusual structural systems, prepared by an architect registered in the state;
 3. A preliminary land/building use profile including computations of gross and leasable square footage, housing unit breakdown to square footage, bedrooms, persons per unit, and parking requirements;
 4. A preliminary storm water management plan and site grading plan including an analysis of the adequacy of surface drainage, storm sewer and catch basin drainage, storm water retention, and erosion control;
 5. A preliminary plan depicting natural features, including those to be preserved, as well as existing vegetation with detailed locations of trees 12 inches or larger in diameter;
 6. A preliminary utility plan showing easements, sewer, water, and power services of all proposed uses;
 7. A preliminary plan showing utilities and utility easements to remain, to be installed, to be relocated, and to be removed or vacated;
 8. A preliminary landscape plan showing the proposed location and dimensions of all walls, fences, and landscape plantings;
 9. A plan showing the proposed location and dimensions of all signs and lighting fixtures, including the illumination characteristics of all lighting;
 10. A soils map that depicts surface and subsurface conditions that may affect construction; and

11. Additional information as required by the planning director.

f. *Legal instruments.* As part of the planned unit development application, the applicant shall submit proposed declarations of covenants, conditions and restrictions, articles of owners, associations and all other such documents as the City may deem necessary to ensure that adequate property control is provided to protect the individual owner's rights and property values, to establish responsibility for maintenance and upkeep, and to ensure continuing compliance with the planned unit development as approved. The City shall require that such declarations of covenants, conditions and restrictions, or other documents provide that, in the event any association or corporation fails to maintain properties in accordance with the applicable ordinances and regulations of the City, fails to pay taxes or assessments on properties as they become due or, in the event the City incurs any expenses in enforcing its ordinances or rules or regulations, the City shall have the right to assess each property its pro rata share of such expenses. These assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.

(h) *Review of planned unit development application.*

(1) *Procedure.* Upon receipt of a completed planned unit development application and the fee established by the City Council, the following review procedure shall be followed:

a. *Planning commission review.* The Planning Commission shall conduct a public hearing on the planned unit development application according to the procedures set forth in Minn. Stats. § 462.357, subd. 3. After the public hearing, the Planning Commission shall submit its recommendation to the City Council. The Planning Commission may recommend approval of the proposal with or without modifications, or may recommend denial of the planned unit development.

b. *City Council consideration.* Following action by the Planning Commission, the City Council shall consider rezoning the area described in the plan. If the planned unit development plan is approved, the area shall be rezoned as one of the four types of planned unit development districts. Pursuant to Minn. Stats. § 15.99, an application for a planned unit development approval shall be approved or denied within 60 days from the date of its official and complete submission unless notice of extension is provided by the City or a time waiver is granted by the applicant. If applicable, processing of the application through required state or federal agencies shall extend the review and decision-making period an additional 60 days unless this limitation is waived by the applicant. Approval of a planned unit development shall require a two-thirds vote of the City Council.

- c. *Required findings.* The findings necessary for approval of a planned unit development application shall be as follows:
1. The proposed development conforms with the goals and objective's of the City's community plan and any applicable redevelopment plans;
 2. The proposed development is in substantial conformity with the purpose and intent of the original district, and departures from the original district regulations are justified by the design of the development;
 3. The proposed development is designed in such a manner as to form a desirable and unified environment within its own boundaries;
 4. The development will not create an excessive burden on parks, schools, streets, or other public facilities and utilities which serve or are proposed to serve the development;
 5. The development will not have undue adverse impacts on neighboring properties; and
 6. The terms and conditions proposed to maintain the integrity of the plan are sufficient to protect the public interests.

- (i) *Final development plan.* Upon approval of the first reading of the planned unit development rezoning, but prior to commencement of any construction or development of land, the applicant shall submit a final development plan which is consistent with the planned unit development application and any recommended changes made during the preliminary plan review. Approval of such final development plan requires a second reading of the ordinance to establish the planned unit development zoning.
- (1) *Contents of the final plan.* A final development plan shall consist of the following:
- a. If required, a final plat of the land to be developed;
 - b. All materials required under subsection (g)(1)e, in "final" form; and
 - c. Additional information as required by the planning director or City Council.
- (2) *Legal instruments.* As part of the final development plan, the applicant shall submit "final" declarations of covenants, conditions and restrictions, articles of owners, associations and all other such documents as the City may deem necessary pursuant to subsection (g)(1)e of this section.

- (j) *Compliance with the planned unit development plan and final development plan.*
- (1) *Changes.* The development of a planned unit development district shall be in substantial compliance with the approved planned unit development plan and final development plan. Compliance shall not be considered substantial if there is:
- a. More than ten percent change in floor area in any one structure;
 - b. More than a ten percent change in the approved separation of buildings;
 - c. Any change in the original approved setbacks from the property line;
 - d. More than five percent change in the ground area covered by the building; and
 - e. Any change in the ratio of off-street parking and loading space to gross floor area.
- (2) If it is determined that the final development plan is not in substantial compliance, the final development plan will be referred to the Planning Commission for review prior to approval by the City Council.
- (3) *Building permits.* A building permit may not be issued for a structure within the planned unit development district until the planning director certifies that the structure conforms to the provisions and conditions of the planned unit development plan and final development plan. Upon approval by the planning director, the building permit application, along with the appropriate information required for building permits, shall be submitted to the building inspector who shall process the building permit in conformance with the building code.
- (4) *Certificate of occupancy.* Certificates of occupancy shall not be issued for a structure with the planned unit development district until the planning director certifies that the structure conforms to the provisions and conditions of the planned unit development plan and final development plan. Upon approval by the planning director, the building inspector shall issue the certificate of occupancy.
- (k) *Cash escrow.* The City Council may require an applicant to provide the City with a cash escrow or letter of credit or bond prior to the issuance of any building permits within a planned unit development. Such escrow amount shall be in an amount of 1.25 times the approved estimated cost of labor and materials for site improvements and shall be submitted to the planning director. Upon satisfactory completion of all construction within the planned unit development, the escrow shall be released by the planning director.
- (l) *Plan amendments.* The Planning Commission shall hold a public hearing on a proposal to amend a final development plan as it may consider necessary, but at least one public hearing shall be held. The Planning Commission shall recommend to the City Council approval with or without modifications, or may recommend denial of the amendment to the planned unit development. The

Planning Commission and City Council may consider all factors considered in connection with rezoning the planned unit development district as well as any other factors relevant to the public health, safety, and welfare. Any planned unit development amendment that changes the classification of the planned unit development district shall require a two-thirds vote of the City Council.

- (m) *Fees.* The application fee for a planned unit development or amendment thereto shall be established by resolution of the City Council. In addition, legal fees, consultant fees, and other reasonable costs incurred by the City in its review and consideration of the planned unit development application shall be paid by the applicant. The application fee shall be paid at the time of the submission of the planned unit development application.
- (n) *Enforcement.* If no construction has begun in the planned unit development within 12 months from the date of approval of the planned unit development, such approval shall lapse and be of no further effect. The Planning Commission, upon showing of good cause by the developer, may extend the time for beginning construction for periods of 12 months.

Section 74-193.

Adult Establishment District.

- (a) District Established.
 - (1) This article establishes the Adult Establishment District which overlies a portion of the M-1 District. All provisions of the M-1 Light Industrial District. All provisions of the M-1 Light Industrial District of this Code apply to all uses within the Adult Establishments Districts.
 - (2) Adult Establishment District. The Adult Establishment District is the area described as follows:

The south half of the Northeast quarter of Section 35, Township 32, Range 25, and the Southwest quarter of the Northwest quarter of Section 36, Township 32, Range 25, Anoka County, Minnesota.

Sections 74-194

Raising of Crops.

The raising of crops, including community gardens, is permitted on vacant parcels within the City, subject to the following:

- (a) Accessory structures, fencing and other miscellaneous improvements are subject of the standards of this ordinance.
- (b) Dead plants and produce not to be used for composting or other garden functions shall be removed from the site in a timely manner.
- (c) Garbage and other trash shall be removed from the site in a timely manner.
- (d) Plantings shall not obstruct any site triangle.
- (e) Chemicals, fertilizers or other toxic materials may not drain onto adjacent properties, into waterways, or onto public rights of way. Chemicals and flammable materials must be disposed of in accordance with Federal and State

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requirements. If stored on site, they must be kept in a locked structure when unattended.

Section 74-195 through 74-210.

Reserved.

CHAPTER 74. ZONING

ARTICLE V. District Regulations.

DIVISION 2. Residential Districts.

Section 74-211. Special requirements for residence districts.

(a) *Purpose and application.*

- (1) *Purpose.* The purpose of this section is to establish minimum standards for residential use of properties in the City.
- (2) *Application of this section.* The provisions of this section shall apply to all R-F, R-1, R-2, R-3, R-4, and R-5 residence districts.

(b) *Floor area requirements.*

- (1) *Single-family dwellings.* For single-family dwellings the minimum ground floor area of the main structure, exclusive of one-story open porches and garages, shall be as follows:

a. For single-family dwellings built after July 31, 1982, including manufactured homes built in conformance with Minnesota Statutes, Section 327.31 to 327.35, that are built on a full basement or cellar which is at least 7-1/2 feet from floor to ceiling and underneath the entire structure, excepting garages:

1. Single-story dwelling, 960 square feet.
2. Story and one-half dwelling, 960 square feet.
3. Two or more story dwelling, 832 square feet.
4. Split entry (or split foyer) dwelling, 960 square feet.

b. For single-family dwellings that are not built on a full basement or cellar which is a least 7-1/2 feet from floor to ceiling and underneath the entire structure, excepting garages:

1. Single-story dwelling, 1,200 square feet.
2. Story and on-half dwelling, 1,200 square feet.
3. Two or more story dwelling, 1,040 square feet.
4. Split entry (or split foyer) dwelling, 1,200 square feet.

- (2) *Multiple-family dwellings.* For multiple-family dwellings the minimum net floor area shall be as follows:

- a. Efficiency dwelling unit, 400 square feet.

- b. One bedroom dwelling unit, 600 square feet.
- c. Two bedroom dwelling unit, 800 square feet.
- d. Three or more bedrooms per unit shall have an additional 100 square feet of floor area for each bedroom in excess of two bedrooms.

For purposes of measurement, the net floor area of a dwelling unit shall mean that area within a building used as a single dwelling unit, and shall be measured from the inside walls to the center of partitions bounding the dwelling unit being measured, but shall not include public stairways, public entries, public foyers, public balconies, or unenclosed public porches, separate utility rooms, furnace areas or rooms, storage areas not within the apartment or garages.

- (c) *Design and construction requirements in multiple-family residence districts.* The design and construction requirements in multiple-family residence districts shall be as follows:

- (1) *Design review.* A site plan for a multiple-family dwelling must be reviewed by the planning commission and approved by the City Council prior to construction.
- (2) *Accessory buildings.* The City Council may require common walls for accessory buildings where common walls will eliminate unsightly and hazardous areas. Exteriors of accessory buildings shall have the same exterior finish as the main structure or some other compatible finish approved during the site plan review.
- (3) *Recreation and open space.* Multiple-family residential projects shall contain an adequate amount of land for park, recreation or local open space use, exclusive of sump and drainage areas, consistent with the requirements of chapter 54 of this Code.

- (d) *Home occupations.*

- (1) *Purpose.* The purpose of this subsection is to prevent competition with business districts and to provide a means, through the establishment of specific standards and procedures, by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood.
- (2) *Application.* Subject to the nonconforming structure and use provisions of this Chapter 74, all occupations conducted in the home shall comply with the provisions of this subsection.
- (3) *Inspection.* The City hereby reserves the right, upon approval of any home occupation, to inspect the premises in which an occupation is being conducted to insure compliance with the provisions of this subdivision or any conditions additionally imposed.

- (4) *Violations.* After two nuisances or Code violation complaints have been made and verified with written notices to the home occupation, a public hearing may be called to reconsider the home occupation within 60 days of the last complaint.
- (5) *Revocation.* An interim use permit for a home occupation may be revoked if (i) the property is found to be in violation of the conditions listed in the interim use permit or (ii) if access to the property for the purpose of making an inspection is refused to the zoning administrator or their designee. The same process established for granting an interim use permit for a home occupation shall be followed when considering revocation of a interim use permit for a home occupation.
- (6) *Penalty.* Violation of the home occupation performance standards shall be subject to the enforcement and penalty provisions as contained in this chapter.
- (7) *Performance standards.* Performance standards for home occupations shall be as follows:
 - a. The home occupation must be clearly incidental and secondary to the residential use of the premises, shall not change the residential character thereof, and shall not result in incompatibility or disturbance to the surrounding residential uses.
 - b. No home occupation shall require external alterations or involve construction of features not customarily found in dwellings except where required to comply with the state fire and building code regulations.
 - c. No retail sales of products fabricated off the premises is allowed except for occasional sales of retail products if the dwelling serves as an office for a person regularly engaged in retail sales outside the dwelling but has no other office and if such occasional sales are incidental to and not the primary purpose of the home occupation.
 - d. No stock in-trade other than that permitted under subsection (d)(7)c of this section shall be kept or sold on the premises.
 - e. Only members of the family occupying the dwelling unit may carry on the home occupation.
 - f. There shall be no exterior display, exterior signs, interior displays or interior signs which are visible from outside the dwelling, unless approved with an interim use permit and the property fronts a road designated as an "A" Minor Arterial by the Future Functional Classification Plan Map in the Anoka Community Plan. Home occupation business signs may be either wall or freestanding-type signs. Freestanding signs shall be a maximum of five square feet in area, a minimum of five feet from property lines, shall not be within the sight triangle of any intersection or driveway, and shall be limited to six feet in overall height.

- g. No outside storage or display is permitted.
 - h. No significant increase in levels of noise, dust, smoke, gas, heat, vibration, glare, fumes, odor or electrical interference shall be detectable to the normal senses off the premises.
 - i. No on street parking of vehicles related to the home occupation is permitted.
 - j. No more than one client or customer may patronize the dwelling unit at one time.
 - k. The space devoted to the occupation shall have an inside entrance into the dwelling area.
 - l. All home occupations shall be conducted entirely within the dwelling and not in an attached or detached garage or in an accessory building.
 - m. No more than 25 percent of the gross floor area of the dwelling unit shall be used for the occupation.
 - n. There is no increase in sewer, water, gas, electricity, or garbage usage in excess of what is normal in a residential neighborhood such that the neighborhood is adversely affected.
 - o. No customer waiting areas are allowed.
 - p. All licenses or permits required to carry on the occupation shall be obtained.
 - q. All home occupations shall be conducted at the sole risk of the dwelling occupants conducting the home occupation. The City shall not be responsible or liable to the dwelling occupants or any third party as a result of the home occupation, and the occupants conducting the home occupation shall indemnify and hold the City harmless from all claims and causes of action associated with the home occupation.
- (8) *Permitted home occupations.* The following home occupations and similar occupations as determined by the City Council are permitted accessory uses in all residential districts only if all conditions in subsection (d)(7) of this section are fully observed.
- a. Artist, author, composer, sculptor.
 - b. Home crafts, such as model making, rug weaving, woodworking, and similar activities, provided that no machinery or equipment shall be used or employed other than that which would customarily be found in the home, including machinery or equipment that would ordinarily be employed in

connection with a hobby or avocation not conducted for gain or profit.

- c. Dressmakers, seamstresses and tailors.
- d. Beauticians and barber shops.
- e. Home offices for accountants, architects, engineers, lawyers, realtors, insurance agents, brokers, clergy, consultants, contractors, land surveyors, musicians, salesman, sales representative, manufacturer's representative, travel agent, home builders and home repair contractors.
- f. Mail order, not including retail sales from the site.
- g. Music and art teachers or other tutoring services.
- h. Telephone answering.
- i. "Work at home" activities where employees of a business, located at another location, perform work for the business in their own residence, provided all physical contact between the business and the employee occurs at the place of business and not the residence, other than the initial installation of any equipment or other work facilities. The work activities of the employee shall conform with all other requirements of this subsection.
- j. Food preparation for sale, when registered with the Department of Agriculture under the Cottage Food exemption in Minnesota Statute 28A.152.
- k. Other occupations that fully comply with the standards in subsection (d) (7) of this section.

(9) *Home occupations allowed with an interim use permit.* The following home occupations are permitted as an accessory use upon approval of an interim use permit by the City Council after recommendation by the planning commission:

- a. Home occupations with the following characteristics:
 - 1. A maximum of one outside employee.
 - 2. Outside parking of no more than one commercial type vehicle identified for business purposes not to exceed one-ton capacity and used for both personal and business transportation. The vehicle is to be owned and registered to an occupant of the property and parked in a screened location.
- b. Ceramic classes with a kiln up to six cubic feet in size.
- c. Domestic animal grooming.

d. Other home occupations which substantially comply with the standards set forth in subsection (d)(7) of this section.

e. Other proposed home occupations that are determined to be similar in character to those listed in subsection (d)(8) of this section.

(10) *Particular home occupations prohibited.* The following uses, and similar uses, shall not be permitted as a home occupation in any residential district:

a. Antique shops, boutiques, dress shops, and gift shops.

b. Photo studio, processing lab, and portrait studios.

c. Restaurants, coffee shops, and tearooms.

d. Offices for physicians, dentists, veterinarians, physical or massage therapists, and chiropractors.

e. Animal hospital or kennel.

f. Auto repair and painting, including the repair of engines, motor vehicles, motorcycles, and heavy equipment.

g. Dancing schools and studios.

h. Dispatching of transfer and moving vans at the site.

i. Furniture repair and refinishing.

j. Palm reading or fortune telling.

k. Preparation of food for sale, unless specifically permitted in this Section.

l. Radio, television and appliance repair shops.

m. Raising of animals for sale.

n. Shops for contractors and tradesmen, such as electricians, plumbers and carpenters.

o. Sign painting.

p. Boarding and lodging houses, unless specifically permitted by the district regulations.

q. Tattoo business.

r. Tanning salons.

- s. Any occupation that requires a federal firearms license, including the sale of firearms; except where each of the following conditions exist:
 - 1. An occupant residing on the premises holds a valid and current federal firearms license and has held the license continuously since December 31, 1995;
 - 2. The occupant had an established occupation at the premises that required a federal firearms license as of December 31, 1995, and has not discontinued such occupation; and
 - 3. At the time of the most recent renewal of the occupant's federal firearms license:
 - i. The premises were inspected by the City and the City certified that the premises (i) were equipped with an adequate security system and (ii) were otherwise adequately protected against theft of firearms from the premises;
 - ii. The occupant has met all the criteria for licensing under the federal firearms code and the individual, in the opinion of the City police department, has been found to be honest, reliable and of good character; and
 - iii. The police department has not received more than three complaints within the past five years related to this use of the premises.
 - t. Trash hauler operations other than a home office.
 - u. Any home occupation which does not substantially comply with the standards set forth in subsection (d)(7) of this section.
- (11) *Application materials.* Prior to the issuance of an interim use permit for a home occupation an application must be submitted which contains the following information:
- a. The owner of the property and the person who will be conducting the home occupation.
 - b. The street address of the dwelling.
 - c. The type of home occupation.
 - d. The type of equipment that will be used.
 - e. The days and hours which the home occupation will be conducted.
 - f. A description of any motor vehicles which will be used in connection with the occupation, and whether or not the

applicant has had any previous denials for a similar request elsewhere.

- g. A plan or drawing of the dwelling which shows clearly and in reasonable detail the portion of the dwelling which is to be used for the home occupation, the number of square feet of living area contained in the dwelling, and the number of square feet to be used for the home occupation.

The application for an interim use permit for a home occupation will be processed according to section 74-34.

- (12) *Amendment to an interim use permit for a home occupation.* The applicant must seek an amendment to the permit in order to change the conditions set forth in the home occupation interim use permit. The amendment will be processed according to section 74-34.

- (e) *Division of two-family dwellings.* Two-family dwellings may be divided into single parcels of record with the party wall acting as the dividing lot line subject to the following conditions:

- (1) Each of the lots created in subdividing lands on which a two-family structure is located shall be equal in area or as near equal as is reasonably possible.
- (2) Each lot so created shall contain no less than 40 percent of the minimum land area requirement for each unit in a two-family dwelling, and shall be shown on a registered survey.
- (3) Except for setbacks along the common property line, all other setback and yard requirements shall be met.
- (4) To the extent reasonably feasible, separate services shall be provided to each residential unit for sanitary sewer, water, electricity, natural gas, telephone, and other utilities.
- (5) The two-family units, either existing or proposed, must be constructed in a side-by-side manner.
- (6) To protect the safety and property of the owner and occupants of each individual unit, no existing duplex structure may be split into two separate ownerships unless and until the common party wall fire rating is brought up to new construction standards contained in the state building code which currently requires a one-hour rating for the party wall and no opening shall be allowed in the party wall. Party walls must provide sound transmission control ratings as per the state building code.
- (7) The owner of property to be subdivided shall execute and record at their expense a declaration of covenant, conditions and restrictions, as prepared by the City attorney. Such document is necessary to protect the rights of the individual owners sharing a single structure and the public as it relates to maintenance, repair, and construction in case of damage to the original structure. The declarations, covenants,

conditions, and restrictions shall provide protection to the property owners and the City on the following subjects:

- a. Building and use restrictions.
- b. Party walls.
- c. Relationship among owners of adjoining living units, including arbitration of disputes.
- d. Separate or shared services.

The intent of these regulations is to promote harmony between the neighbors sharing a single structure and to protect the City and neighborhood from improper maintenance and/or disputes such as the following examples: one living unit being painted one color and the other unit having a different color or one side of the structure having one roof color and type of roof and the other side being of a different type and color. The City is concerned that all such disputes be avoided and that the regulations contained in this subsection are designed to establish the rights of the parties prior to their entering into joint ownership of one structure. The City shall be a beneficiary of these declarations, covenants, conditions, and restrictions.

- (8) The authority to divide a single structure containing two dwelling units shall be subject to chapter 54 this Code relating to park dedication and other subdivision requirements and the City Council may impose other reasonable conditions.

Section 74-212.

R-F farm residence district.

- (a) *Permitted uses.* In an R-F farm residence district, no building or land shall be used or divided, and no building shall be erected, converted, or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
 - (1) Single-family dwellings.
 - (2) Nursery or growing fields, not to include retail sales.
 - (3) Public owned parks and public owned playgrounds.
 - (4) Golf courses.
 - (5) Railroad rights of way for through trains, but no switching, storage or other railroad operations.
 - (6) A State licensed residential facility or a housing with services establishment registered under Minnesota Statutes Chapter 144 D, serving six (6) or fewer persons as allowed under Minnesota Statutes 462.357 Subd (7), as amended.

- (7) A State licensed daycare facility serving twelve or fewer persons as allowed under Minnesota Statutes 462.357 Subd 7, as amended.
- (8) A group family daycare facility licensed under Minnesota Rules 9502.0315 to 9502.0445, to serve fourteen (14) or fewer children as allowed under Minnesota Statutes 462.357 Subd 7, as amended. A conditional use permit obtained pursuant to Section 36-17 of the Code is required for the operation of such schools or facilities on non-residential premises within this zone. Residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.
- (9) Essential services, including electrical, gas, water, sewer, distribution and collection lines, pumping facilities for water and sewer systems, rights-of-way for transportation modes and telephone switching facilities.

State law reference--Certain state licensed facilities as permitted uses, Minn. Stats. § 462.357, subd. 7.

- (b) *Accessory Structures and Uses.* Within the R-F District, the following accessory structures and uses shall be permitted provided they are subordinate to, associated with and located on the same lot as a permitted use. An accessory structure or use shall not predate a principal structure or use, unless granted an interim use permit as permitted under this Chapter.
 - (1) Private recreation facilities – swimming pools, tennis courts, etc. for the use and enjoyment of residents and guests.
 - (2) Uses customarily incidental to the permitted, conditional or interim uses allowed in the district.
 - (3) Private garages and off-street parking and loading as regulated by this Chapter.
 - (4) Signs as regulated by this Chapter.
 - (5) The operation of necessary facilities and equipment in connection with schools, universities, hospitals, colleges, and other institutions permitted or conditionally permitted in the district.
 - (6) Recreation, refreshment and service buildings in public parks and playgrounds.
 - (7) Boarding or renting of rooms to not more than two (2) individuals per dwelling unit as regulated by this Chapter and the Property Maintenance Code of the City Code. A person providing home healthcare shall not be considered as a boarder or renter for purposes of this Ordinance.
 - (8) Home occupations as permitted by this Chapter.
 - (9) Recreational vehicles and equipment parking as regulated by this Chapter.

- (10) Tool houses, sheds and other structures for the storage of domestic supplies and equipment.
 - (11) Radio and televisions receiving antennas, including single satellite dish TVRO's (television receiving only) one meter or less in diameter, short-waver radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio station if the antenna is thirty-five (35) feet or less in height.
 - (12) Outdoor sales and fund-raising events sponsored by non-profit uses allowed in this district and limited to six (6) events per calendar year, no one event to exceed four (4) days.
 - (13) Garage and yard sales limited to three (3) events per calendar year, no one event to exceed three (3) days.
 - (14) Model homes and temporary real estate offices until development is completed.
 - (15) Solar equipment.
 - (16) Minor mass transit facilities including benches, which may include advertising signs.
 - (17) Air conditioning machinery located on an exterior pad.
 - (18) Home schools.
- (c) *Conditional uses.* The following uses of land or structures are permitted in the R-F farm residence district if granted a conditional use permit:
- (1) Churches.
 - (2) Libraries.
 - (3) A group family daycare facility under Minnesota Rules 9502.0315 to 9502.0445, to serve fourteen (14) or fewer children and operated on non-residential premises within this zone.
 - (4) Other uses similar to those permitted by this section, as determined by the City.
- (d) *Interim Uses.* The following uses of land or structures are permitted in the R-F Farm Residential District if granted an Interim Use Permit.
- (a) Home occupations as regulated by this Chapter.
 - (b) Radio and television receiving antennas, including single satellite dish TVRO's (television receiving only) one meter or less in diameter, short-wave radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio station if the antenna is over thirty-five (35) feet in height.

- (c) Land filling and excavation/grading operations, including mining, if more than 1000 cubic yards of material.
 - (d) Temporary classroom structures.
 - (e) Temporary real estate offices until development is completed.
 - (f) Major mass transit facilities, including park and ride facilities and inter-modal transfer points and bus shelters.
 - (g) Other uses similar to those permitted by this Subdivision or determined to be consistent with the standards for interim uses as regulated by this Chapter.
- (e) *Accessory uses.* The following are permitted accessory uses in the R-F farm residence district:

Accessory structures:

- (1) Where the principal use is a single-family dwelling, garages shall contain at least 440 square feet, but the total area of all accessory uses shall not exceed 1,056 square feet unless the footprint of living space within the dwelling exceeds 1,056 square feet, as determined by the City assessor's standard procedures for calculating such footprints; when the living space footprint exceeds 1,056 square feet, the total area of all accessory uses may equal the living space footprint area, but in no case shall exceed 1,200 square feet, nor shall the total area of all structures on a lot exceed 30 percent of the lot area, nor shall any lot contain more than three structures which enclose accessory space.
- (2) An accessory building shall be attached to and made structurally part of the principal building if it is within five (5) feet of the principal building.

Living quarters of persons employed on the premises.

Private garage.

Private recreation facilities swimming pools, tennis courts, etc., for the use and enjoyment of residents and guests.

Signs as regulated in this chapter.

Uses customarily incident to permitted or conditional uses allowed in the district.

- (f) *Prohibited Uses.*

- (1) State licensed residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

(2) Any use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

(g) *Height, yard and area regulations.* Height, yard and area regulations for the R-F farm residence district shall be as follows:

(1) *Height regulations.* No building hereafter erected or altered in an R-F district shall exceed 2½ stories or 30 feet in height, except as provided in section 74-483.

(2) *Front yard regulations.*

a. There shall be a front yard having a depth of not less than 50 feet, unless 30 percent or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that have observed a greater or less depth of front yard, in which instance no new building or portion thereof shall project beyond the average of the setback lines of the residences upon either side of the proposed structure, or if there are residences on only one side, then beyond the average of the setback lines of the two nearest residences. However, this regulation shall not be interpreted to require a front yard of more than 100 feet.

b. On a corner lot, there shall be a front yard on each side of such lot. No accessory building shall project beyond the front yard line of either street.

c. Riparian lots shall have front yards of 100 feet from the ordinary high water level. On riparian lots, the front yard is defined as the area which abuts the water.

(3) *Side yard regulations.*

a. Except as provided in the subsection (d)(3)b of this section and in section 74-485, there shall be a side yard, on each side of a building, a width of not less than 15 feet.

b. Churches must have a minimum side yard of 50 feet.

c. Whenever a lot of record, existing on December 7, 1967, has a width of 70 feet or less, the side yard on each side of a building may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than five feet.

(4) *Rear yard regulations.* Except as provided in section 74-485, there shall be a rear yard having a depth of not less than 40 feet or 20 percent of the depth of the lot, whichever amount is larger, but it need not exceed 50 feet.

(5) *Lot area regulations.*

- a. Every lot or tract of land upon which a single-family dwelling is erected shall have an area of not less than 2½ acres and an average width of not less than 100 feet; except, that if a lot or tract has less area of width than required in this section and was legally platted and was of record at the time of the passage of the ordinance from which this chapter is derived, that lot may be used for any of the uses permitted in this section.
- b. Riparian lots shall have an area of not less than five acres, not more than 30 percent of the total lot shall be covered with an impervious surface, and such surface area must be set back a minimum of 50 feet from the ordinary high water level of the river and screened by a natural material.
 1. All riparian lots shall have a minimum lot width of 200 feet.
 2. All riparian lots shall have a minimum lot depth of 200 feet.

Section 74-213.

R-1 Single-Family Residential District.

- (a) *Purpose.* The purpose of the R-1 district is to provide a district for single-family detached dwellings in those areas where such development is consistent with the low-density residential designation of the community plan and compatible with the surrounding land use characteristics. Development within the R-1 district shall occur at densities not exceeding 4.3 dwelling units per acre.
- (b) *Permitted uses.* The following are permitted uses in the R-1 single-family residential district:
 - (1) Single-family detached dwellings, but not more than one dwelling unit per lot.
 - (2) Parks and recreational areas owned or operated by public bodies.
 - (3) A State licensed residential facility or a housing with services establishment registered under Minnesota Statutes Chapter 144 D, serving six (6) or fewer persons as allowed under Minnesota Statutes 462.357 Subd. (7), as amended.
 - (4) A Group family daycare facility licensed under Minnesota Rules 9502.0315 to 9502.0445, to serve fourteen (14) or fewer children as allowed under Minn. Stats. § 462.357, subd. 7. A conditional use permit obtained pursuant to this Section or Code is required for the operation of such schools or facilities on nonresidential premises within this zone. Residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

(5) Essential services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems, rights-of way for transportation modes, and telephone switching facilities.

(c) *Accessory structures and uses.*

(1) *Generally.* Within the R-1 District, the following accessory structures and uses shall be permitted provided they are subordinate to, associate with and located on the same lot as a permitted use. An accessory structure or use shall not predate a principal structure or use, unless granted an interim use permit as permitted by this Chapter.

- a. Private recreation facilities – swimming pools, tennis courts, etc., for the use and enjoyment of residents and guests.
- b. Uses customarily incidental to the permitted, conditional or interim uses allowed in the district.
- c. Private garages and off-street parking and loading as regulated by this Chapter.
- d. Signs as regulated by this Chapter.
- e. The operation of necessary facilities and equipment in connection with schools, universities, hospitals, colleges, and other institutions permitted or conditionally permitted in the district.
- f. Recreation, refreshment and service buildings in public parks and playgrounds.
- g. Boarding or renting of rooms to not more than two (2) individuals per dwelling unit as regulated by this Chapter and the Property Maintenance section of this Code. A person providing home healthcare shall not be considered as a boarder or renter for purposes of this ordinance.
- h. Home occupations as permitted by this Chapter.
- i. Tool houses, sheds and other structures for the storage of domestic supplies and equipment.
- j. Radio and television receiving antennas, including single satellite dish TVRO's (television receiving only) one meter or less in diameter, short-wave radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio station if the antenna is thirty-five feet (35') or less in height.
- k. Outdoor sales and fundraising events sponsored by non-profit uses allowed in this district and limited to six (6) events per calendar year, no one event to exceed four (4) days.

- l. Garage and yard sales limited to three (3) events per calendar year, no one event to exceed three (3) days.
 - m. Model homes and temporary real estate offices until development is completed.
 - n. Solar equipment.
 - o. Minor mass transit facilities including benches, which may include advertising signs.
 - p. Air conditioning machinery located on an exterior pad.
 - q. Home schools.
- (2) *Standards for accessory structures in the R-1 single-family residence district.* Standards for accessory structures in the R-1 single-family residence district shall be as follows:
- a. Where the principal use is a single-family dwelling, garages shall contain at least four hundred forty (440) square feet and not more than one thousand fifty-six (1,056) square feet.
 - b. For residential uses, the total area of all accessory building, including attached garages, shall not exceed one thousand two hundred (1,200) square feet.
 - c. A lot shall contain no more than three accessory buildings, including attached garages.
 - d. An accessory building shall be attached to and made structurally part of the principal building if it is less than five (5) feet from the principal building.
- (d) *Conditional uses.* The following uses of land or structures are permitted in the R-1 single-family residential district if granted a conditional use permit:
- (1) Nurseries, greenhouses for growing only, landscape gardening and tree farms.
 - (2) Private recreation, including golf courses, driving ranges, clubhouse, country club, swimming or tennis club.
 - (3) Public schools or private schools having a course of instruction approved by the Minnesota Board of Education for students enrolled in grades K-12, or any portion thereof, provided they do not include boarding or residential facilities.
 - (4) Churches or other religious or philanthropic institutions.
 - (5) Cemeteries or memorial gardens.
 - (6) Public and community buildings owned or operated by public bodies.
 - (7) Wireless communication antennas not located on a public structure or existing tower as regulated by this Chapter.

- (8) Bed and breakfast facilities.
 - (9) Single satellite dish and TVRO's greater than one (1) meter in diameter.
 - (10) Public or private nursing or convalescent homes.
 - (11) Licensed daycare facilities for more than six (6) persons, provided they are located within a religious or educational structure that is not used for residential purposes.
 - (12) Greenhouses for home use.
 - (13) Other uses similar to those permitted by this section, as determined by the City.
- (e) *Interim uses.* The following uses of land or structures are permitted in the R-1 single-family residential district if granted an interim use permit:
- (1) Home occupations as regulated by this chapter.
 - (2) Radio and television receiving antennas, including single satellite dish TVRO's (television receiving only) one meter or less in diameter, short-wave radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio station if the antenna is over 35 feet height.
 - (3) Land filling and excavation/grading operations, including mining, if more than 1,000 cubic yards of material.
 - (4) Temporary classroom structures.
 - (5) Temporary real estate offices until development is completed.
 - (6) Major mass transit facilities, including park and ride facilities and inter-modal transfer points and bus shelters.
 - (7) Other uses similar to those permitted by this subsection or determined to be consistent with the standards for interim uses as regulated by this chapter.
- (f) *Prohibited uses.*
- (1) Residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses.
 - (2) Any use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in this Code, shall be considered prohibited in the R-1 single-family residential district. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this chapter.

- (g) *Lot area requirements.* The lot area requirements for the R-1 single-family residential district are as follows:
- (1) Every lot on which a single-family dwelling is erected shall not be less than 10,000 square feet except riparian lots.
 - (2) Every lot on which a single-family dwelling is erected shall not be less than 75 feet in width, nor less than 120 feet in depth. Lots on cul-de-sac streets shall have a minimum frontage of 50 feet on the right-of-way line. Corner lots shall have at least ten (10) feet extra width and sufficient depth for established building setback on both streets.
 - (3) Riparian lots shall not be less than 15,000 square feet and shall not be less than 75 feet in width, nor less than 200 feet in depth. No more than 30 percent of the lot shall be covered by impervious surface. Such surface must be a minimum of 50 feet from the ordinary high water level and screened by natural materials.
 - (4) In no case shall the impervious surface coverage of a nonriparian lot exceed 35 percent of the area of the lot.
- (h) *Front, side, and rear yard requirements.* Front, side, and rear yard requirements in the R-1 single-family residential district shall be as follows:
- (1) *Front yard regulations.* Front yard requirement shall be as follows:
 - a. There shall be a front yard having a depth of not less than 25 feet. On corner lots, there shall be a front yard on each side that abuts a street and a side yard on each side that does not. In no case shall there be more than two front yard setbacks applied to any lot. No accessory building shall project beyond the front yard line of any street. If the average front yard setback on a block is greater than the required 25 feet, all new home construction, including residential additions, must be set back a distance equal to the average setback.
 - b. The front yard setback for uses other than residential shall be 35 feet.
 - c. Riparian lots shall have front yards of 100 feet from the ordinary water level. On riparian lots, the front yard is defined as the area which abuts the water.
 - d. No detached accessory structure shall be closer to the front lot line than the principal structure.
 - (2) *Side yard regulations.* Side yard regulations shall be as follows:
 - a. Except as provided in the subsection (h)(2)b of this section and section 74-485, there shall be a side yard on each side of a building having a width of not less than ten feet, except a minimum five-foot side yard is allowable next to either an attached or detached garage or accessory structure.

- b. Whenever a lot of record existing at the time of passage of the ordinance from which this chapter is derived has a width of less than 66 feet, the side yard on each side of the building may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall the side yard be less than five feet.

- c. The side yard setback for uses other than residential shall be 25 feet.

(3) *Rear yard regulations.* Rear yard regulations shall be as follows:

- a. Each lot shall have a rear yard of not less than 25 feet with respect to detached accessory uses and structures which may be located five feet from the rear lot line.
- b. The rear yard setback for uses other than residential shall be 40 feet.

(i) *Maximum building height.* The maximum building height in the R-1 single-family residential district shall be as follows:

- (1) No structure shall exceed 2½ stories or 35 feet in height, whichever is less.
- (2) A detached accessory building shall not exceed fifteen feet (15') in height for a building with a shed or flat roof, eighteen feet (18') in height for a gable, hip, gambrel, mansard, arch or round roof, or the height of the principal building, whichever is less.
- (3) The wall height of a detached accessory building shall not exceed twelve feet (12').
- (4) Attached garages shall not exceed the height of the principal building.
- (5) Where the average slope of a lot is greater than one foot (1') rise or fall in seven feet (7') of horizontal distance from the established street elevation at the property line, one (1) additional story than the number permitted under this section shall be permitted on the down hill side of the building.
- (6) Public and semi-public buildings, schools, churches, hospitals and other institutions permitted in this district may be erected to a height not exceeding fifty feet (50'). In such cases where the height of the structure is increased beyond thirty-five feet (35'), the front, rear and side yards shall be increased one foot (1') for each foot of building height that exceeds thirty-five feet (35').

(j) *Special regulations.* Special regulations in the R-1 single-family residential district shall be as follows:

- (1) A detached accessory building, other than a garage, shall not be located in a required front yard, or closer than five feet from any rear or side lot line.

- (2) No residential structure shall have a width of less than 24 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- (3) All residential structures shall have permanent concrete or wood foundations, which comply with the state building code and which is solid for the complete circumference of the house.
- (4) All residential dwellings must be built in conformance with the state building code.
- (5) Two enclosed parking spaces of not less than 440 square feet shall be required for a single-family dwelling.

Section 74-214.

R-2 one- and two-family dwellings district.

- (a) *Purpose.* The purpose of the R-2 one- and two-family dwellings district is to provide a district for single-family and two-family dwellings in those areas where such development is consistent with the low density residential designation of the community plan and compatible with surrounding land use characteristics. Development within this district shall occur at densities not exceeding eight (8) units per acre.
- (b) *Permitted uses.* The following are permitted uses in the R-2 one- and two-family dwelling district:
 - (1) Single-family dwellings detached dwelling units on lots with a minimum area of 10,000 square feet, but not more than one dwelling unit per lot.
 - (2) Two-family dwellings.
 - (3) Parks and recreational areas owned or operated by public schools.
 - (4) A State licensed residential facility or ahousing with services establishment registered under Minnesota Statutes Chapter 144D, serving six (6) or fewer persons as allowed under Minnesota Statutes 462.357, Subd. 7, as amended.
 - (5) A State licensed daycare facility serving twelve (12) or fewer persons as allowed under Minnesota Statutes 462.357, as amended.
 - (6) A Group family daycare facility licensed under Minnesota Rules 9502.0315 to 9502.0445, to serve fourteen (14) or fewer children as allowed under Minn. Stats. § 462.357, subd. 7. A conditional use permit obtained pursuant to this Chapter is required for the operation of such schools or facilities on non-residential premises within this zone. Residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.
 - (7) Essential services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems,

rights-of-way for transportation modes, and telephone switching facilities.

(c) *Accessory structures and uses.*

- (1) *Generally.* Within the R-2 District, the following accessory structures and uses shall be permitted provided they are subordinate to, associated with and located on the same lot as a permitted use. An accessory structure or use shall not predate a principal structure or use, unless granted an interim use permit as permitted by this Chapter.
- a. Private recreation facilities – swimming pools, tennis courts, etc., for the use and enjoyment of residents and guests.
 - b. Uses customarily incidental to the permitted, conditional or interim uses allowed in the district.
 - c. Private garages and off-street parking and loading as regulated by this Chapter.
 - d. Signs as regulated by this Chapter.
 - e. The operation of necessary facilities and equipment in connection with schools, universities, hospitals, colleges, and other institutions permitted or conditionally permitted in the district.
 - f. Recreation, refreshment and service buildings in public parks and playgrounds.
 - g. Boarding or renting of rooms to not more than two (2) individuals per dwelling unit as regulated by this Chapter and the Property Maintenance section of this Code. A person providing home healthcare shall not be considered as a boarder or renter for purposes of this ordinance.
 - h. Home occupations as permitted by this Chapter.
 - i. Recreational vehicles and equipment parking as regulated by this Chapter.
 - j. Tool houses, sheds and other structures for the storage of domestic supplies and equipment.
 - k. Radio and television receiving antennas, including single satellite dish TVRO's (television receiving only) one meter or less in diameter, short-wave radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio station if the antenna is thirty-five feet (35') or less in height.
 - l. Outdoor sales and fundraising events sponsored by non-profit uses allowed in this district and limited to six (6) events per calendar year, no one event to exceed four (4) days.

- m. Garage and yard sales limited to three (3) events per calendar year, no one event to exceed three (3) days.
 - n. Model homes and temporary real estate offices until development is completed.
 - o. Solar equipment.
 - p. Minor mass transit facilities including benches, which may include advertising signs.
 - q. Air conditioning machinery located on an exterior pad.
 - r. Home schools.
 - s. Uses customarily incidental to permitted, conditional or interim uses allowed in the district.
- (2) *Standards for accessory structures in the R-2 one- and two-family dwelling district.* Standards for accessory structures in the R-2 one- and two-family dwelling district shall be as follows:
- a. Where the principal use is a single-family dwelling, garages shall contain at least four hundred forty (440) square feet and not more than one thousand fifty-six (1,056) square feet.
 - b. For two-family units, garages shall contain at least four hundred (400) square feet per unit and not more than one thousand fifty-six (1,056) square feet per unit.
 - c. For residential uses, the total area of all accessory buildings on a lot, including attached garage space, shall not exceed one thousand two hundred (1,200) square feet.
 - d. A lot shall contain no more than three accessory buildings, including attached garages.
 - e. An accessory building shall be attached to and made structurally part of the principal building if it is less than five (5) feet from the principal building.
- (d) *Conditional Uses.* The following uses of land or structures are permitted in the R-2 one- and two dwelling district if granted a conditional use permit:
- (1) Private recreation, including golf courses, driving ranges, clubhouse, country club, swimming or tennis club.
 - (2) Public schools or private schools having a course of instruction approved by the state board of education for students enrolled in grades K-12, or any portion thereof, provided they do not include boarding or residential facilities.
 - (3) Churches or other religious or philanthropic institutions.
 - (4) Cemeteries or memorial gardens.

- (5) Wireless communication antennas not located on a public structure or existing tower as regulated by this chapter.
 - (6) Bed and breakfast facilities.
 - (7) Single satellite dish and TVRO's greater than one meter in diameter.
 - (8) Public or private nursing or convalescent homes.
 - (9) Public and community buildings owned or operated by public bodies.
 - (10) Licensed day care facilities for more than six persons, provided they are located within a religious or educational structure which is not used for residential purposes.
 - (11) Greenhouses for home use.
 - (12) Other uses similar to those permitted by this section, as determined by the City.
- (e) *Interim uses.* The following uses of land or structures are permitted in the R-2 one- and two-family dwelling district if granted an interim use permit:
- (1) Home occupations as regulated by this chapter.
 - (2) Radio and television antennas, including single satellite dish TVRO's (television receiving only) one meter or less in diameter short-wave radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio stations if the antenna is over 35 feet in height.
 - (3) Land filling and excavation/grading operations, including mining, if more than 1,000 cubic yards of material.
 - (4) Temporary classroom structures for used by public or private schools.
 - (5) Temporary real estate offices until development is completed.
 - (6) Major mass transit facilities, including park and ride facilities and inter-modal transfer points and bus shelters.
 - (7) Other uses similar to those permitted by this subsection or determined to be consistent with the standards for interim uses as regulated by this chapter.
- (f) *Prohibited uses.*
- (1) Residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.
 - (2) Any use not specifically listed as permitted, conditionally permitted, permitted as an interim use, or as allowed elsewhere in this Code, shall

be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this chapter.

- (g) *Lot area requirements.* Lot area requirements in the R-2 one- and two-family dwellings district shall be as follows:
- (1) A lot on which there is erected a single-family dwelling shall contain an area of not less than 10,000 square feet, and shall not be less than 75 feet in width at the building setback line and 50 feet at the property line of cul-de-sac. Minimum depth shall be 120 feet.
 - (2) A lot on which there is erected a two-family dwelling shall have an area of not less than 10,500 square feet, and an average width of not less than 80 feet, and an average depth of not less than 120 feet; except, that if a lot has less area, width or depth than required in this chapter, and was legally platted and was of record at the time of passage of the ordinance from which this chapter is derived, that lot may be used only for a single-family residence.
 - (3) Riparian lots shall have a minimum area of 15,000 square feet and not be less than 75 feet in width and 200 feet in depth. No more than 30 percent of the total lot area may be covered by an impervious surface. Such surface area must be a minimum of 50 feet from the ordinary high water level and screened by natural material.
 - (4) In no case shall the impervious surface coverage of a nonriparian lot exceed 35 percent of the lot area.
 - (5) Corner lots shall have at least ten (10) feet extra width and sufficient depth for established building setback on both streets.
- (h) *Front, side and rear yard regulations.* Front, side and rear yard regulations for the R-2 one- and two-family dwellings district shall be as follows:
- (1) *Front yard regulations.* Front yard regulations shall be as follows:
 - a. There shall be a front yard having a depth of not less than 25 feet. On corner lots, there shall be a front yard on each side that abuts a street and a side yard on each side that does not. In no case shall there be more than two front yard setbacks applied to any lot. No accessory building shall project beyond the front yard line of any street. If the average front yard setback on a block is greater than 25 feet, all new home construction, including residential additions, must be set back a distance equal to the average setback.
 - b. The front yard setback for uses other than residential shall be 35 feet.
 - c. Riparian lots shall have front yards of 100 feet from the ordinary high water level. On riparian lots the front yard is defined as the area which abuts the water.

d. No detached accessory structure shall be closer to the front lot line than the principal structure.

(2) *Side yard regulations.* Side yard regulations shall be as follows:

a. Except as provided in the subsection (h)(2)b of this section and section 74-485, there shall be a side yard on each side of a building having a width of not less than ten feet, except a minimum five-foot side yard is allowable next to either an attached or detached garage or accessory structure.

b. Whenever a lot of record existing at the time of passage of this chapter has a width of less than 66 feet, the side yard on each side of the building may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than five feet.

c. The side yard setback for uses other than residential shall be 25 feet.

(3) *Rear yard regulations.* Rear yard regulations shall be as follows:

a. Each lot shall have a rear yard of not less than 25 feet, with respect to detached accessory uses and structures which may be located five feet from the rear lot line.

b. The rear yard setback for uses other than residential shall be 40 feet.

(i) *Maximum building height.* The maximum building height in the R-2 one- and two-family dwellings district shall be as follows:

(1) No structure shall exceed two and one-half (2-1/2) stories, or thirty-five (35) feet in height, whichever is less.

(2) A detached accessory building shall not exceed fifteen (15) feet in height for a building with a shed or flat roof, eighteen (18) feet in height for a gable, hip, gambrel, mansard, arch or round roof, or the height of the principal building, whichever is less.

(3) The wall height of a detached accessory building shall not exceed twelve (12) feet.

(4) Attached garages shall not exceed the height of the principal building.

(5) Where the average slope of a lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established street elevation at the property line, one (1) additional story than the number permitted under this section shall be permitted on the down hill side of the building.

(6) Public and semi-public buildings, schools, churches, hospitals and other institutions permitted in this district may be erected to a height not exceeding fifty (50) feet. In such cases where the height of the structure is increased beyond thirty-five (35) feet, the front, rear and

side yards shall be increased one (1) foot for each foot of building height that exceeds thirty-five (35) feet.

- (j) *Special regulations.* Special regulations for the R-2 one- and two-family dwellings district shall be as follows:
- (1) A detached accessory building other than a garage shall not be located in a required front yard or closer than five feet from any rear or side lot line.
 - (2) No residential structure shall have a width of less than 24 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
 - (3) All residential structures shall have permanent concrete or wood foundations, which comply with the state building code and which is solid for the complete circumference of the house.
 - (4) All residential dwellings must be built in conformance with the state building code.
 - (5) Two enclosed parking spaces of not less than 440 square feet shall be required for a single-family dwelling.
 - (6) Two enclosed parking spaces of not less than 400 square feet per dwelling unit shall be required for a two-family dwelling.

Section 74-215.

R-3 Medium and High Density Residential Districts.

- (a) *Intent.* The R-3 medium and high density residential district is intended to allow development at medium and high density in areas consistent with the comprehensive plan and planning policies.
- (b) *Permitted uses.* The following are permitted uses in the R-3 low density multiple-family district:
 - (1) Single-family.
 - (2) Two-family dwellings.
 - (3) Two to six family attached dwellings.
 - (4) Townhouses, row houses or group houses (not to exceed eight (8) units per building or six (6) in a linear configuration) and each dwelling unit shall have separate and individual front and rear entrances and solid walls of at least five (5) feet in height and twelve (12) feet in length extending to the rear of each dwelling unit so as to substantially enclose on at least three sides a semi-private outdoor space.
 - (5) Multiple dwellings, apartments.
 - (6) Golf courses (except club houses, miniature courses and driving tees operated for commercial purposes).

- (7) A Group family daycare facility licensed under Minnesota Rules 9502.0315 to 9502.0445, to serve fourteen (14) or fewer children as allowed under Minn. Stats. § 462.357, subd. 7. A conditional use permit obtained pursuant to this Chapter is required for the operation of such schools or facilities on non-residential premises within this zone. Residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.
- (8) A State licensed daycare facility serving twelve (12) or fewer persons as allowed under Minnesota Statutes 462.357, as amended.
- (9) A State licensed residential facility or a housing with services establishment registered under Minnesota Statutes Chapter 144D, serving six (6) or fewer persons as allowed under Minnesota Statutes 462.357, Subd. 7, as amended.
- (10) Essential services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems, rights-of-way for transportation modes, and telephone switching facilities.

State law reference--Certain state licensed facilities as permitted use, Minn. Stats. § 462.357, subd. 8.

- (c) *Accessory Structures and Uses.*
 - (1) *Generally.* The following are permitted accessory structures uses in the R-3 low density multiple-family district, provided they are subordinate to, associated with and located on the same lot as a permitted use. An accessory structure or use shall not predate a principal structure or use, unless granted an interim use permit as permitted under this Chapter:
 - a. Private recreation facilities – swimming pools, tennis courts, etc., for the use and enjoyment of residents and guests.
 - b. Uses customarily incidental to the permitted, conditional or interim uses allowed in the district.
 - c. Private garages and off-street parking and loading as regulated by this Chapter.
 - d. Signs as regulated by this Chapter.
 - e. The operation of necessary facilities and equipment in connection with schools, universities, hospitals, colleges, and other institutions permitted or conditionally permitted in the district.
 - f. Recreation, refreshment and service buildings in public parks and playgrounds.
 - g. In one and two-family dwellings, boarding or renting of rooms to not more than two (2) individuals per dwelling unit as regulated by this Chapter and the Property Maintenance

Chapter of the City Code. A person providing home healthcare shall not be considered as a boarder or renter for the purposes of this ordinance.

- h. Home occupations as permitted by this Chapter.
 - i. Recreational vehicles and equipment parking as regulated by this Chapter.
 - j. Tool houses, sheds and other structures for the storage of domestic supplies and equipment.
 - k. Radio and television receiving antennas, including single satellite dish TVRO's (television receiving only) one meter or less in diameter, short-wave radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio station if the antenna is thirty-five (35) feet or less in height.
 - l. Outdoor sales and fundraising events sponsored by non-profit uses allowed in this district and limited to six (6) events per calendar year, no one event to exceed four (4) days.
 - m. Garage and yard sales limited to three (3) events per calendar year, no one event to exceed three (3) days.
 - n. Model homes and temporary real estate offices until development is completed.
 - o. Solar equipment.
 - p. Minor mass transit facilities including benches, which may include advertising signs.
 - q. Air conditioning machinery located on an exterior pad.
 - r. Home schools.
 - s. Uses customarily incidental to permitted, conditional or interim uses allowed in the district.
- (d) *Conditional uses.* The following uses of land or structures are permitted in the R-3 low density multiple-family district if granted a conditional use permit:
- (1) Private recreation including golf driving ranges, clubhouse, country club, swimming or tennis club.
 - (2) Public schools or equivalent private schools.
 - (3) Churches or other religious or philanthropic institutions.
 - (4) Municipal administrative or service buildings or uses including public and semi-public institutions, libraries, museums, post offices, etc., except industrial type use.

- (5) Railroad right-of-way.
- (6) Cemetery.
- (7) Convalescent and nursing homes.
- (8) A state licensed residential facility serving from seven (7) through sixteen (16) persons as allowed under Minnesota Statutes 462.357 Subd. 8, as amended.
- (9) A State licensed daycare facility serving from thirteen (13) through sixteen (16) persons as allowed under Minnesota Statutes 462.357 Subd. 8, as amended.
- (10) A State licensed daycare facility serving any number of persons on non-residential premises provided State space requirements are met and upon obtaining a conditional use permit as provided in this Code. Permits for non-residential daycare facilities will not be granted unless the site meets one of the following conditions:
 - a. The facility will be located in an existing institutional building, or
 - b. The site is suitable for commercial uses and will not be disruptive or detrimental to an existing residential area.

State law references--State mandated conditional uses, Minn. Stats. § 462.357, subd. 1b; authority to require conditional use permit for certain state licensed facilities, Minn. Stats. § 462.357, subd. 8.

- (e) *Interim Uses.* The following uses of land or structures are permitted in the R-3 Low Density Multiple Family Residential District if granted an Interim use Permit:
 - (1) Home occupations as regulated by this Chapter.
 - (2) Radio and television antennas, including single satellite dish TVRO's (television receiving only) one meter or less in diameter short-wave radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio stations if the antenna is over thirty-five (35) feet in height.
 - (3) Land filling and excavation/grading operations, including mining, if more than one-thousand (1,000) cubic yards of material.
 - (4) Temporary classroom structures for used by public or private schools.
 - (5) Temporary real estate offices until development is completed.
 - (6) Major mass transit facilities, including park and ride facilities and inter-modal transfer points and bus shelters.

(7) Other uses similar to those permitted by this subsection or determined to be consistent with the standards for interim uses as regulated by this Chapter.

(f) *Prohibited Uses.*

(1) Residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses.

(2) Any use not specifically listed as permitted, conditionally permitted, permitted as an interim use, or as allowed elsewhere in this Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

(g) *Lot area requirements.* Except as otherwise provided in this Chapter, every dwelling hereafter erected, enlarged, relocated, altered or reconstructed in the R-3 low density multiple-family district shall be located upon lots containing the following areas:

(1) A lot on which there is erected a single-family dwelling shall contain an area of not less than 7,500 square feet, and shall not be less than 60 feet wide at the building setback line, nor less than 130 feet in depth.

(2) A lot on which there is erected a two-family dwelling shall contain an area of not less than 10,500 square feet and shall not be less than 75 feet wide at the building setback line nor less than 130 feet in depth.

(3) A lot on which there is erected a multiple dwelling shall contain an area of not less than 12,000 square feet for the first two dwelling units plus 2,000 square feet for each additional dwelling unit and shall not be less than 75 feet wide at the building setback line nor less than 130 feet in depth.

(4) Townhouse lot area regulations: The minimum lot area per dwelling unit shall not be less than 4,500 square feet and the minimum total lot area shall not be less than 22,500 square feet.

(5) Riparian lots shall have a minimum area of 15,000 square feet and a lot width of 75 feet and a lot depth of 200 feet. No more than 30 percent of the total lot area may be covered by an impervious surface and such surface area must be at least 50 feet from the ordinary high water level of the river and screened by natural material.

(6) Corner lots shall have at least ten (10) feet extra width and sufficient depth for established building setback on both streets.

(h) *Front, side and rear yard requirements.* Front, side and rear yard requirements in the R-3 low density multiple-family district shall be as follows:

(1) *Front yard regulations.* Front yard regulations shall be as follows:

a. For two-family and multiple family structures there shall be a front yard having a depth of not less than 35 feet. For any single-family structure there shall be a front yard having a depth of not less than 25 feet. There shall be a front yard on each street side of a corner lot. No accessory buildings shall project beyond the front yard line of either street.

b. Riparian lots shall have front yards of 100 feet from the ordinary high water level. On riparian lots, the front yard is defined as the area which abuts the water.

(2) *Side yard regulations.* Side yard regulations shall be as follows:

a. for any two-family and multiple family structures there shall be a side yard on each side of a building, having a width of not less than 15 feet. For any single-family structure there shall be a side yard of not less than 10 feet. A minimum of five-foot side yard setback is allowable next to either an attached or detached garage.

b. There shall be a side yard which shall have a width of not less than 20 feet on each side of a three-story building.

(3) *Rear yard regulations.* One or two-family dwellings shall have a rear yard of not less than 25 feet. Three or more family dwellings shall have a rear yard of not less than 30 feet. All nonresidential uses shall have a rear yard area of not less than 40 feet. Detached permitted accessory uses and structures may be located five feet from the property line.

(i) *Maximum building height:*

(1) No structure shall exceed two and one-half (2-1/2) stories, or thirty-five (35) feet in height, whichever is less.

(2) A detached accessory building shall not exceed fifteen (15) feet in height for a building with a shed or flat roof, eighteen (18) feet in height for a gable, hip, gambrel, mansard, arch or round roof, or the height of the principal building, whichever is less.

(3) The wall height of a detached accessory building shall not exceed twelve (12) feet.

(4) Attached garages shall not exceed the height of the principal building.

(5) Where the average slope of a lot is greater than a one (1) foot rise or fall in seven (7) feet of horizontal distance from the established street elevation at the property line, one (1) additional story than the number permitted in this article shall be permitted on the down hill side of the building.

(6) Public and semi-public buildings, schools, churches, hospitals and other institutions permitted in this district may be erected to a height not exceeding fifty (50) feet. In such cases where the height of the structure is increased beyond thirty-five (35) feet, the front, rear and

side yards shall be increased one (1) foot for each foot of building height exceeds thirty-five (35) feet.

- (j) *Special regulations.* Special regulations for the R-3 low density multiple-family district shall be as follows:

- (1) *Lot coverage.* No more than the following percentage of each lot shall be covered by buildings, drives, and parking areas:

Type of Lot	Percentage Covered
Two-family	30
Townhouse	30
Quadhomes	50
Multiple	50

- (2) The minimum distance between principal buildings on the same lot is 30 feet.
- (3) All residential dwellings must be in conformance with the State Building Code.
- (4) Parking and driving areas:
- a. The minimum number of spaces for a single-family dwelling shall be two (2) and shall be an enclosed garage of at least found hundred forty (440) square feet.
 - b. The minimum number of required surfaced off-street parking spaces for the following residential uses:
 1. Two-family and quad – a minimum of two (2) spaces per dwelling unit and shall be an enclosed garage of at least four hundred (400) square feet.
 2. Townhouse – a minimum of two (2) spaces per unit. At least one (1) space per unit shall consist of an enclosed garage.
 3. Multiple – a minimum of 2.5 spaces per unit. At least one (1) space per unit shall consist of an enclosed garage.
 - c. No parking shall be permitted or drives constructed within five (5) feet of any property line or within twenty (20) feet of any right-of-way line. There shall be no parking permitted in the sight triangle described as described in this chapter.
 - d. Parking is permitted in the side, front, or rear yard areas in multi-family housing developments provided that the parking area is effectively screened from public view by a combination of fence, plantings and berms.

- (5) Garages and Accessory Buildings:
- a. Where the principal use is a single-family dwelling, garages shall contain at least four hundred forty (440) square feet and not more than one thousand fifty-six (1,056) square feet.
 - b. For two-family units, garages shall not contain less than four hundred (400) square feet and not more than one thousand fifty-six (1,056) square feet of floor area.
 - c. An accessory building shall be attached to and made structurally part of the principal building if it is less than five (5) feet from the principal building.
 - d. For single-family and two-family residential uses, the total area of all accessory building on a lot, including attached garage space, shall not exceed one thousand two hundred (1,200) square feet.
 - e. For single-family and two-family residential uses, a lot shall contain no more than three (3) accessory buildings, including attached
- (6) No parking of any kind shall be permitted in the public right-of-way, boulevard, or sidewalk areas.
- (k) *Architectural standards.* The architectural control and appearance for townhomes, rowhomes, group houses, multiple dwellings, and apartments in the R-3 district shall be regulated as follows. The following standards apply to all newly constructed buildings, structures, or additions. New additions may use exterior materials that are similar to the existing structure materials. Projects involving only ordinary maintenance or the replacement of existing or identical materials of an existing building are exempt.
- (1) Facades.
- a. Visual Breaks. The exterior of new buildings shall be designed with visual breaks through the use of decorative tile work, masonry (but not smooth surface concrete block), belt courses of a different texture and color, projecting cornices, medallions, opaque or translucent glass, artwork, vertical articulation, lighting fixtures, or architectural elements not listed herein as approved by the City Council.
 - b. Width. A building more than 45 feet in width shall be divided into increments of no more than 45 feet through articulation of the façade. This can be achieved through combination of the following techniques:
 1. Division of breaks in materials
 2. Window bays
 3. Special treatment at entrances
 4. Subtle variations in rooflines and parapet detailing
 5. Building setbacks, façade recesses and projections

6. Awnings
7. Repetitive elements

- (2) Exterior Materials and Detailing.
- a. New buildings and structures, additions, and renovations must be constructed of durable materials.
 - b. In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following:
 1. An intermediate cornice line
 2. A difference in building materials or detailing
 3. An offset in the façade
 4. An awning, loggia, or arcade
 5. Special window lintels
 6. Brick/stone corbels
 - c. The exterior opaque materials on each respective elevation must be brick, stone, decorative masonry or similar materials or a combination thereof according to the following: Public Façade: 50%; Side Façade: 33%; Interior Façade: 25%. The brick, stone, or decorative masonry shall be focused on prominent architectural features, particularly the elevations that include primary building entrance, corners of buildings, and the prominent building elevations fronting on public streets.
 - d. The remaining percentage of the exterior opaque wall finish materials on any building shall be comprised of the following materials:
 1. Cast stone
 2. Wood shingles (cedar shingles with 6-inch maximum exposure)
 3. Lap siding, cedar or redwood (6 inch width, no diagonal siding)
 4. Tongue and groove paneling, cedar or redwood (6 inch width, no diagonal siding)
 5. Copper (untreated)
 6. Stucco and EFIS
 7. Cement board
 8. Glass (does not include windows)
 9. Dark anodized aluminum or metal as accent
 10. Materials that are similar in character to those listed above.
 - e. The following materials are not allowed as exterior wall finish materials on new buildings:
 1. Smooth concrete block
 2. Pre-fabricated steel panels
 3. Aluminum, vinyl or fiberglass siding or roofing materials.

4. Pre-cast concrete panels
5. Painting of previously unpainted brick
6. Wooden exteriors, except for those listed as allowed above.

- (3) Dumpster and refuse enclosures.
 - a. Dumpster and refuse enclosures must be gated and completely screened using enclosures constructed of materials compatible with the principal building, and must be located in designated side or rear yards or inside the building.

Section 74-216.

R-4 high density residential district.

- (a) *Intent.* The R-4 high density residential district is intended to create, preserve and enhance areas for higher densities. The R-4 High Density district is typically appropriate only in areas served by public utilities, with good accessibility to thoroughfares, public community centers, libraries, and shopping centers and where such development fits the comprehensive plan and planning policies.
- (b) *Permitted uses.* The following are permitted uses in the R-4 high density multiple-family district:
 - (1) Single-family dwellings.
 - (2) Two family dwellings.
 - (3) Two to Six family dwellings.
 - (4) Townhouses, rowhouses, or group houses (not to exceed eight units per building or six in a linear configuration) and each dwelling unit shall have separate and individual front and rear entrances and solid walls of at least five feet in height and 12 feet in length extending to the rear of each dwelling unit so as to substantially enclose on at least three sides a semiprivate outdoor space.
 - (5) Multiple dwellings, apartments.
 - (6) Parks and recreational areas owned or operated by public bodies.
 - (7) Golf course (except club houses, miniature courses and driving tees operated for commercial purposes).
 - (8) A State licensed daycare facility serving twelve or fewer persons as allowed under Minnesota Statutes 462.357 Subd 7, as amended.
 - (9) A Group family daycare facility licensed under Minnesota Rules 9502.0315 to 9502.0445, to serve fourteen (14) or fewer children as allowed under Minn. Stats. § 462.357, subd. 7. A conditional use permit obtained pursuant to this Chapter is required for the operation of such schools or facilities on non-residential premises within this zone. Residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

(10) A State licensed residential facility or a housing with services establishment registered under Minnesota Statutes Chapter 144D, serving six (6) or fewer persons as allowed under Minnesota Statutes 462.357, Subd. 7, as amended.

(11) Essential services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems, rights-of-way for transportation modes, and telephone switching facilities.

(c) *Accessory Structures and Uses.*

(1) *Generally.* The following are permitted accessory structures uses in the R-4 District, provided they are subordinate to, associated with and located on the same lot as a permitted use. An accessory structure or use shall not predate a principal structure or use, unless granted an interim use permit as permitted under this Chapter:

- a. Private recreation facilities – swimming pools, tennis courts, etc., for the use and enjoyment of residents and guests.
- b. Uses customarily incidental to the permitted, conditional or interim uses allowed in the district.
- c. Private garages and off-street parking and loading as regulated by this Chapter.
- d. Signs as regulated by this Chapter.
- e. The operation of necessary facilities and equipment in connection with schools, universities, hospitals, colleges, and other institutions permitted or conditionally permitted in the district.
- f. Recreation, refreshment and service buildings in public parks and playgrounds.
- g. In one and two-family dwellings, boarding or renting of rooms to not more than two (2) individuals per dwelling unit as regulated by this Chapter and the Property Maintenance Chapter of the City Code. A person providing home healthcare shall not be considered as a boarder or renter for the purposes of this ordinance.
- h. Home occupations as permitted by this Chapter.
- i. Recreational vehicles and equipment parking as regulated by this Chapter.
- j. Tool houses, sheds and other structures for the storage of domestic supplies and equipment.
- k. Radio and television receiving antennas, including single satellite dish TVRO's (television receiving only) one meter or

less in diameter, short-wave radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio station if the antenna is thirty-five feet (35') or less in height.

- l. Outdoor sales and fundraising events sponsored by non-profit uses allowed in this district and limited to six (6) events per calendar year, no one event to exceed four (4) days.
- m. Garage and yard sales limited to three (3) events per calendar year, no one event to exceed three (3) days.
- n. Solar equipment.
- o. Minor mass transit facilities including benches, which may include advertising signs.
- p. Air conditioning machinery located on an exterior pad.
- q. Home schools.
- r. Uses customarily incidental to permitted, conditional or interim uses allowed in the district.

(d) *Conditional uses.* The following uses of buildings or land are permitted in the R-4 high density multiple-family district if granted a conditional use permit:

- (1) Private recreation including golf driving ranges, clubhouse, country club, swimming or tennis club.
- (2) Public schools or equivalent private schools.
- (3) Churches or other religious or philanthropic institutions.
- (4) Municipal administrative or service buildings or uses including public and semi-public institutions, libraries, museums, post offices, etc., except industrial type use.
- (5) Essential public service and utility structures and uses.
- (6) Railroad right-of-way.
- (7) Cemetery.
- (8) Temporary real estate offices until development is completed.
- (9) Food store or delicatessen, retail, personal service uses and professional offices as secondary use in building with any permitted principal use and whether or not in building with permitted principal use if part of a P.U.D.
- (10) Boarding and lodging houses.

- (11) A state licensed residential facility serving from thirteen (13) through sixteen (16) persons as allowed under Minnesota Statutes 462.357 Subd. 8, as amended.
 - (12) A convalescent and nursing home.
 - (13) A State licensed daycare facility serving from seven (7) through sixteen (16) persons as allowed under Minnesota Statutes 462.357 Subd. 8, as amended.
 - (14) Public and community buildings owned or operated by public bodies.
- (e) *Interim Uses.* The following uses of land or structures are permitted in the R-4 High Density Multiple Family Residential District if granted an Interim use Permit:
- (1) Home occupations as regulated by this Chapter.
 - (2) Radio and television antennas, including single satellite dish TVRO's (television receiving only) one meter or less in diameter short-wave radio dispatching antennas, and antennas necessary for the operation of electronic equipment including radio receivers and federally licensed amateur radio stations if the antenna is over 35 feet in height.
 - (3) Land filling and excavation/grading operations, including mining, if more than 1,000 cubic yards of material.
 - (4) Temporary classroom structures.
 - (5) Temporary real estate offices until development is completed.
 - (6) Major mass transit facilities, including park and ride facilities and inter-modal transfer points and bus shelters.
 - (7) Other uses similar to those permitted by this subsection or determined to be consistent with the standards for interim uses as regulated by this chapter.
- (f) *Prohibited Uses.*
- (1) A use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.
- (g) *Lot area requirements.* Except as otherwise provided in this chapter, every dwelling hereafter erected, enlarged, relocated, altered or reconstructed in the R-4 high density multiple-family district shall be located upon lots containing the following areas:
- (1) A lot on which there is erected a single-family dwelling shall contain an area of not less than 7,500 square feet, and shall not be less than 60 feet wide at the building setback line, nor less than 120 feet in depth.

- (2) A lot on which there is erected a two-family dwelling shall contain an area of not less than 8,500 square feet, and shall not be less than 60 feet wide at the building setback line nor less than 125 feet in depth.
- (3) A lot which there is erected a multiple dwelling shall contain an area of not less than 9,000 square feet for the first three dwelling units plus 1,000 square feet for each additional dwelling unit.
- (4) Townhouse lot area regulations: The minimum lot area per dwelling unit shall not be less than 4,500 square feet and the minimum total lot area shall not be less than 22,500 square feet.
- (5) Riparian lots shall have a minimum area of 15,000 square feet and not be less than 75 feet and 200 feet in depth. No more than 30 percent of the total lot area may be covered by an impervious surface. Such surface area must be a minimum of 50 feet from the ordinary high water level and screened by natural material.
- (6) Corner lots shall have at least ten (10) feet extra width and sufficient depth for established building setback on both streets.

State law references--State mandated conditional uses, Minn. Stats. § 462.357, subd. 1b; authority to require conditional use permit for certain state licensed facilities, Minn. Stats. § 462.357, subd. 8.

- (h) *Front, side and rear yard requirements.* Front, side and rear yard requirements in the R-4 high density multiple-family district shall be as follows:
 - (1) *Front yard regulations.* Front yard regulations shall be as follows:
 - a. For two-family and multiple family structures there shall be a front yard having a depth of not less than 35 feet. For any single-family structure there shall be a front yard having a depth of not less than 25 feet. There shall be a front yard on each street side of a corner lot. No accessory buildings shall project beyond the front yard line of either street.
 - b. Riparian lots shall have front yards of 100 feet from the ordinary high water level. On riparian lots the front yard is defined as the area which abuts the water.
 - (2) *Side yard regulations.* Side yard regulations shall be as follows:
 - a. For two-family and multiple family structures there shall be a side yard on each side of a building, having a width of not less than 15 feet. For any single-family structure there shall be a side yard of not less than 10 feet. A minimum of five-foot side yard setback is allowable next to either an attached or detached garage.
 - b. There shall be a side yard which shall have a width of not less than 20 feet on each side of a three-story building.
 - (3) *Rear yard regulations.* One- or two-family dwellings shall have a rear yard of not less than 25 feet. Three or more family dwellings shall have a rear yard of not less than 30 feet. All nonresidential uses shall have a

rear yard area of not less than 40 feet. Detached permitted accessory uses and structures may be located five feet from the property line.

- (i) *Maximum building height:*
 - (1) No building shall be erected in an R-4 district to exceed thirty-five (35) feet in height or three (3) stories, except greater heights may be allowed by conditional use permit providing each side yard is increased by one (1) foot for each additional foot of height above thirty-five (35) feet.
 - (2) A detached accessory building shall not exceed fifteen (15) feet in height for a building with a shed or flat roof, eighteen (18) feet in height for gable, hip, gambrel, mansard, arch or round roof, or the height of the principal building, whichever is less.
 - (3) The wall height of a detached accessory building shall not exceed twelve (12) feet.
 - (4) Attached garages shall not exceed the height of the principal building.
- (j) *Special regulations.* Special regulations for the R-4 high density multiple-family district shall be as follows:
 - (1) *Lot coverage.* No more than the following percentage of each lot shall be covered by buildings, drives, and parking areas:

<u>Type of Lot</u>	<u>Percentage Covered</u>
Two-family	30
Townhouse	30
Quadhomes	50
Multiple	50

- (2) The minimum distance between principal buildings on the same lot shall be one-third the sum of the building heights but not less than 35 feet.
- (3) All residential dwellings must be in conformance with the state building code.
- (4) Parking and driving areas:
 - a. The minimum number of spaces for a single-family dwelling shall be two (2) and shall be an enclosed garage of at least four hundred forty (440) square feet.
 - b. The minimum number of required surfaced off-street parking spaces for the following residential uses:

1. Two-family and quad - a minimum of two spaces per dwelling unit and shall be an enclosed garage of at least four hundred (400) square feet.

2. Townhouse - a minimum of two spaces per unit. At least one (1) space per unit shall consist of an enclosed garage.

3. Multiple - a minimum of 2.5 spaces per unit. At least one (1) space per unit shall consist of an enclosed garage.

c. No parking shall be permitted or drives constructed within five (5) feet of any property line or within twenty (20) feet of any right-of-way line. There shall be no parking permitted within the sight triangle described in this Article.

d. Parking is permitted in the side, front, or rear yard areas in multi-family housing developments provided that the parking area is effectively screened from public view by a combination of fence, plantings, and berms.

(5) Garages and Accessory Buildings:

a. Where the principal use is a single-family dwelling, garages shall contain at least four hundred forty (440) square feet and not more than one thousand fifty-six (1,056) square feet.

b. For two-family units, garages shall not contain less than four hundred (400) square feet and not more than one thousand fifty-six (1,056) square feet of floor area.

c. An accessory building shall be attached to and made structurally part of the principal building if it is within five (5) feet of the principal building.

d. For single-family and two-family residential uses, the total area of all accessory buildings on a lot, including attached garage space, shall not exceed one thousand two hundred (1,200) square feet.

e. For single-family and two-family residential uses, a lot shall contain no more than three (3) accessory buildings, including attached garages.

(6) No parking of any kind shall be permitted in the public right-of-way, boulevard or sidewalk areas.

(k) *Architectural standards.* The architectural control and appearance for townhomes, rowhomes, group houses, multiple dwellings, and apartments in the R-4 district shall be regulated as follows. The following standards apply to all newly constructed buildings, structures, or additions. New additions may use exterior materials that are similar to the existing structure materials. Projects involving only ordinary maintenance or the replacement of existing or identical materials of an existing building are exempt.

- (1) Facades.
 - a. Visual Breaks. The exterior of new buildings shall be designed with visual breaks through the use of decorative tile work, masonry (but not smooth surfaced concrete block), belt courses of a different texture and color, projecting cornices, medallions, opaque or translucent glass, artwork, vertical articulation, lighting fixtures, or architectural elements not listed herein as approved by the City Council.
 - b. Width. A building more than 45 feet in width shall be divided into increments of no more than 45 feet through articulation of the façade. This can be achieved through combination of the following techniques:
 1. Division of breaks in materials
 2. Window bays
 3. Special treatment at entrances
 4. Subtle variations in rooflines and parapet detailing
 5. Building setbacks
 6. Awnings
 7. Repetitive elements
- (2) Exterior Materials and Detailing.
 - a. New buildings and structures, additions, and renovations must be constructed of durable materials.
 - b. In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following:
 1. An intermediate cornice line
 2. A difference in building materials or detailing
 3. An offset in the façade
 4. An awning, loggia, or arcade
 5. Special window lintels
 6. Brick/stone corbels
 - c. The exterior opaque materials on each respective elevation must be brick, stone, decorative masonry or similar materials or a combination thereof according to the following: Public Façade: 50%; Side Façade: 33%; Interior Façade: 25%. The brick, stone, or decorative masonry shall be focused on prominent architectural features, particularly the elevations that include primary building entrance, corners of buildings, and the prominent building elevations fronting on public streets.
 - d. The remaining percentage of the exterior opaque wall finish materials on any building shall be comprised of the following materials:
 1. Cast stone

2. Wood shingles (cedar shingles with 6-inch maximum exposure)
 3. Lap siding, cedar or redwood (6 inch width, no diagonal siding)
 4. Tongue and groove paneling, cedar or redwood (6 inch width, no diagonal siding)
 5. Copper (untreated)
 6. Stucco and EFIS
 7. Cement board
 8. Glass (does not include windows)
 9. Dark anodized aluminum or metal as accent
 10. Materials that are similar in character to those listed above.
- e. The following materials are not allowed as exterior wall finish materials on new buildings:
 1. Smooth surfaced concrete block
 2. Pre-fabricated steel panels
 3. Aluminum, vinyl or fiberglass siding or roofing materials.
 4. Pre-cast concrete panels
 5. Painting of previously unpainted brick
 6. Wooden exteriors, except for those listed as allowed above.
- (3) Dumpster and refuse enclosures.
 - a. Dumpster and refuse enclosures must be gated and completely screened using enclosures constructed of materials compatible with the principal building, and must be located in designated side or rear yards or inside the building.

Section 74-217.

R-5 residential flex district.

- (a) *Intent.* The R-5 residential flex district is intended to allow and encourage high density residential development adjoining the downtown business district to provide a high level of accessibility to services, retail outlets, public facilities and public transportation to persons with less mobility and for those choosing a more urban lifestyle. The R-5 residential flex district attempts to create a reasonable balance between the interests of the property owner in developing the property, and at the same time protect the interest of the surrounding properties and the City in the following ways:
 - (1) By encouraging a more creative approach in housing developments that will result in quality living environments through innovative design and aesthetic controls.
 - (2) By permitting a combination of housing types and style, including single-, two-family, townhouse, and multiple-family dwellings.
 - (3) By allowing flexibility in design by permitting cluster developments and a variety of architectural styles and treatments.

- (4) By allowing for any type of ownership, private, condominium, or rental.
 - (5) By allowing flexibility in setback and height restrictions.
 - (6) By allowing office, retail shops, and personal service uses which will serve the inhabitants of such district, provided such nonresidential uses will enhance the character, amenities, and convenience of those who live in the proposed development.
 - (7) By providing an efficient use of land resulting in more cost efficient installation of utilities, streets, and other facilities.
 - (8) By encouraging the preservation of common open space, recreational facilities, and natural features such as shore lands and woodlands.
 - (9) By contributing to the tax base of the community without making undue demands on the community service.
- (b) *Criteria.* The R-5 residential flex district is an overlay zoning district and may be allowed only in the central business district or adjoining residential districts. Every proposal presented to the City Council for rezoning to the residential flex district shall be accompanied by a site plan as required in section 74-37. A conditional use permit is required at the time of final plan approval to insure adherence to the site plan. The City Council shall consider the following criteria and objectives in processing the application for rezoning to R-5 residential flex district and the application for the conditional use permit.
- (1) That the proposed development is compatible with the purposes and intents of this ordinance and with the comprehensive plan.
 - (2) That the proposal shall exercise no substantial detrimental influence upon the market value of surrounding properties.
 - (3) That the proposal shall show a favorable economic impact on the overall community.
 - (4) That the proposal shall in no way be detrimental to the environment.
 - (5) That the proposal shall not impose any undue burden upon the public services and facilities, such as fire and police protection, schools, streets, water systems, sanitary sewer systems, and storm sewer systems.
 - (6) That the proposed development is designed in such a manner to not be detrimental to future land uses in the surrounding area.
 - (7) That the proposal be consistent with all other applicable City and state regulations.
- (c) *Procedure.* The following procedure shall apply to the R-5 residential flex district:
- (1) Prior to the preparation and filing of a preliminary site plan and formal application for the conditional use permit and rezoning to the R-5

residential flex district, the developers or owners shall meet with the director of community development to review all applicable ordinances, regulations, and plans that will affect the area to be rezoned.

- (2) The developers or property owners in the R-5 residential flex district shall prepare a site plan in accordance with the regulations of section 74-37 and shall submit the plan to the office of community development 30 days prior to the public hearing.
 - (3) The notice for public hearing shall be published in the official newspaper at least ten days, but not more than 30 days, prior to the public hearing, at which time the item will be heard. Notices will also be sent during this time period to property owners of record within 350 feet of exterior boundaries of subject property.
 - (4) The Planning Commission shall simultaneously hold a public hearing on the site plan and proposed rezoning and conditional use permit requests. Following the public hearing, the planning commission shall submit in writing to the City Council its report, its findings, and its recommendation as to the appropriateness of the site plan, and shall recommend approval, modification, postponement, or disapproval based upon the criteria set forth in subsection (b) of this section.
 - (5) The site plan and rezoning application shall be scheduled for a City Council meeting within 30 days after submittal of the planning commission report.
 - (6) The City Council shall consider the application for rezoning pursuant to subsection (b) of this section and shall approve, postpone, or disapprove the application for the rezoning. If the application for the rezoning is approved, the City Council shall approve or modify the site plan.
- (d) *Major changes.* If the applicant proposes major changes in the site plan for property in a R-5 residential flex district, these changes can only be made by resubmission of a new site plan and rezoning application to the office of community development, and rescheduling of a new public hearing before the planning commission and review again by the City Council. The following constitute major changes:
- (1) Increase in density.
 - (2) Change in architectural design or style.
 - (3) Change in type of ownership, private, condominium, or rental.
 - (4) Change of more than ten percent in total floor area.
 - (5) Increase in height of any building.
 - (6) Major modification to the landscape plan.
 - (7) Reduction in the proposed open space.

- (8) Change in the development schedule.
 - (9) Change in the road location or standards.
 - (10) Any changes determined to be major by the City Council.
- (e) *Minor changes.* The City Council may, in its discretion, permit minor deviations from the site plan for property in a R-5 residential flex district which do not change the concept or intent of the proposed development as previously approved.
- (f) *Rezoning.* The following shall apply to rezoning in the R-5 residential flex district:
- (1) If a conditional use permit is not granted within a two-year period from the time the City Council approves the rezoning and site plan, the Council may initiate a rezoning to remove the residential flex district zoning.
 - (2) If construction does not commence within 12 months after issuance of the conditional use permit, the Council may initiate a rezoning to remove the residential flex district zoning and rezone the property to the zoning that was in effect at the time of the initial rezoning.
 - (3) If construction is not proceeding in accordance with the approved development schedule, the Council may initiate a rezoning of all or part of the property to the zoning that was in effect at the time of the initial rezoning.
- (g) *Development guarantee.* Prior to the granting of any building permit within a R-5 residential flex district, a deposit shall be made to the City, in cash or letter of credit, approved by the City, equal to 125 percent of the estimated cost of all on site improvements, except building structure, as required by the final plans.
- (h) *Standards.* In order to provide a maximum flexibility, no fixed standards shall apply to the R-5 residential flex district. However, the City Council shall consider for any proposed use the regulations prescribed in other sections of this chapter for the classification most closely resembling the proposed use. It is the intent that the Planning Commission shall consider and recommend to the City Council appropriate restrictions in connection with each individual application and site development plan for rezoning.
- (i) *Compliance.* No development shall occur nor shall any building permits be issued for any construction that is not in accord with the approved final plans.

Section 74-218.

R-6 mobile home park residence district.

- (a) *Intent.* The R-6 mobile home park residence district is intended to allow mobile home park development in areas generally meeting the locational requirements of the R-4 district, however, due to the unique site development requirements the R-6 district is established to assure compatible development.
- (b) *Permitted uses.* The following are permitted uses in the R-6 mobile home park residence district:

Parks and recreational areas owned or operated by public bodies.

- (c) *Conditional uses.* The following uses are permitted in the R-6 mobile home park residence district if granted a conditional use permit:

Churches or other religious or philanthropic institutions.

Essential public service and utility structures or uses.

Home occupations as regulated in this ordinance.

Mobile home parks.

- (d) *Accessory uses.* The following are permitted accessory uses in the R-6 mobile home park residence district:

Parking and signs as regulated in this ordinance.

Private recreation facilities swimming pools, tennis courts, etc. for the use and enjoyment of residents and guests.

Private garages.

Uses customarily incident to permitted or conditional uses allowed in the district.

- (e) *Location of mobile homes outside mobile home parks.* The location of mobile homes outside mobile home parks in a R-6 mobile home park residence district shall be regulated as follows:

- (1) It shall be unlawful within the City for any person to park any mobile home on any street, alley or highway or other public place, or on any tract of land owned by any person, occupied or unoccupied except as provided in this section.
- (2) Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than three hours subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or ordinances for that street, alley or highway.
- (3) No person shall park or occupy any mobile home on either the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling which is situated outside of an approved mobile home park; except that the parking of only one mobile home unoccupied in an accessory private garage building, side yard or rear yard is permitted provided no living quarters shall be maintained or any businesses practiced in the mobile home which such mobile home is so parked or stored.
- (4) Temporary special permits may be issued by the building inspector for use of a trailer as an office by persons directly connected with new construction in the City; provided that such person has obtained a building permit for the construction and is proceeding with such work.

Such temporary special permits shall be limited to periods of not more than ten days following completion of project.

- (f) *Mobile home park permits.* Mobile home park permits in the R-6 mobile home park residence district shall be as regulated as follows:
- (1) Application for a permit to establish, construct and maintain a mobile home park under the provisions of this section shall be made to the City.
 - (2) The application for a permit shall be accompanied by four copies of the mobile home park plan showing the following, either existing or proposed:
 - a. The extent and area proposed for mobile home park purposes;
 - b. Roads and driveways;
 - c. Location of sites or lots for mobile homes;
 - d. Location and number of sanitary conveniences;
 - e. Proposed disposition of surface drainage;
 - f. Proposed street surfacing and lighting;
 - g. Utility easements;
 - h. Off-street parking;
 - i. Patios;
 - j. Location of community building;
 - k. Location of recreation facilities;
 - l. Location of sidewalks;
 - m. Location of setback lines;
 - n. Location of screening, planting and green areas;
 - o. Any other information requesting by the City.
 - (3) Each application for a permit shall be accompanied by a certificate of ownership as to all of the property within 300 feet of any boundary line of the proposed mobile home park site.
 - (4) Each applicant shall be required to pay a fee at the time that such application is filed with the City. Such fee shall be as established by resolution of the City Council and this money shall be used by the City to defray the expenses of processing the application.
 - (5) No permit for any mobile home park shall be issued by the City Council until after a public hearing has been held.

- (g) *Building permit for mobile home park.* Building permits for mobile home parks in R-6 mobile home park residence districts shall be regulated by the following:
- (1) The applicant for a building permit for the construction of a mobile home park or any part thereof shall comply with all applicable provisions of the City building code.
 - (2) Each application shall be accompanied by four copies of detailed plans of the proposed construction and improvement of the site.
 - (3) Every application for a building permit to construct a mobile home park or to expand an existing mobile home park shall be accompanied by plans approved by the state department of health showing that the applicant is complying with all recommendations, suggestions and laws under the jurisdiction of that department.
 - (4) The building permit shall be issued by the City building inspector after it has been approved by a majority vote of the City Council. The building permit fee shall be based on a registered engineer's estimate of total construction costs.
 - (5) Each segment of a proposed mobile home park or expansion of an existing mobile home park shall be complete as to design standards of this article before occupancy is permitted.
- (h) *Site requirements.* Site requirements for the R-6 mobile home park residence district shall be as follows:
- (1) Each lot shall have a gross area of not less than 5,000 square feet.
 - (2) Each lot shall have a minimum width of 50 feet; corner lots shall have a minimum width of 60 feet. The length of a lot shall be measured from the curb face to the rear lot line.
 - (3) The front yard to a mobile home lot shall be no less than ten feet from the curb and no less than five feet from the sidewalk. Such front yard shall not be occupied by parked vehicles.
 - (4) Where an alley is provided adjacent to the rear lot line, there shall be a minimum rear yard of ten feet. Where there is no alley, the rear yard shall be not less than 20 feet.
 - (5) There shall be a side yard of not less than five feet between a mobile home and any side lot line.
 - (6) There shall be not less than 20 feet of area between mobile homes in all directions.
 - (7) A patio shall be constructed on the ground beside each mobile home parking space; this patio shall be not less than 200 square feet in area constructed of concrete with four-inch minimum thickness.

- (8) At least one suitable shade tree other than of the elm variety (minimum diameter two inches at time of planting) shall be placed and maintained on each lot.
- (9) Except for the areas used for the mobile home, patio, sidewalk, driveways and off-street parking space, the entire lot shall be sodded and maintained with grass or plantings.
- (10) Each lot shall abut on and have access to a public or private street. All streets, driveways and off-street parking areas shall be constructed in accordance with City street standards.
- (11) A concrete curb or curb and gutter shall be constructed on each side of the street and face of this curb shall be at least 17 feet from the centerline of the street. The curb design shall be in accordance with the City curb standards.
- (12) A concrete sidewalk, not less than 36 inches wide and four inches thick, shall be constructed parallel with and on the lot side of the curb. This sidewalk shall be connected to the required patio by a concrete walk not less than 24 inches in width. All sidewalks shall be constructed in accordance with City sidewalk standards.
- (13) There shall be a yard of not less than 50 feet in depth along each public street or way adjacent to the park and this area shall be sodded or planted.
- (14) Every mobile home park shall provide for a minimum yard of at least 20 feet on all sides of the mobile home park except where abutting upon a public street, way or residential area. This area shall be planted to provide a screen between the mobile home park and adjacent property.
- (15) Where a mobile home park abuts any residence district there shall be a yard of at least 50 feet and this area shall be landscaped.
- (16) No more than one mobile home shall be parked on any mobile home lot; except that an unoccupied camper or pickup truck may be parked in the driveway of the lot.
- (17) No mobile home may be inhabited by a greater number of occupants than that for which it was designed by the manufacturer.
- (18) Water facilities, sewage disposal and street lighting shall be installed and maintained by the owner of the mobile home park and shall be constructed in accordance with the laws of the State, the recommendations of the State Health Department and this Code and other ordinances and requirements of the City.
- (19) Design and placement of fire hydrants throughout the area shall be such as to satisfy the Fire Chief that adequate fire protection is achieved.
- (20) An off-street parking area of at least 440 square feet shall be provided on each lot or adjacent to each lot if joint parking facilities are provided.

- (21) All utility lines and services within the mobile home park shall be placed underground.
 - (22) A minimum of ten percent of the total mobile home park area shall be devoted to usable park and recreation space and shall be furnished with playground type equipment meeting City standards for quality, durability and safety.
 - (23) All boats, trailers, snowmobiles, hauling trailers and all other equipment not stored within the mobile home or the utility enclosure that may have been provided shall be stored in a separate area provided by the park and not upon the lots occupied by mobile homes nor upon the streets within the mobile home park.
 - (24) All mobile homes occupied or stored in the mobile home park shall be registered with the motor vehicle division of the state and shall display license plates for the current year.
 - (25) An adequate office and community building including a storm shelter as regulated by the State, common laundry facilities and sanitation facilities shall be provided adjacent to an area to be used for exterior clothes drying. No exterior clothes drying shall be permitted within any lot or any other area of the mobile home park except in an area specifically provided.
 - (26) The mobile home park operator shall remove snow from all street and sidewalk areas within the park.
 - (27) No domestic animals or house pets of mobile home occupants shall be allowed to run at large, or commit any nuisances within the limits of a mobile home park.
- (i) *Administration of section; mobile home park license; variances.*
 - (1) This section shall be administered and enforced by the building inspector, who is hereby designated as enforcing officer. The building inspector may institute in the name of the City any appropriate actions or proceedings against a violator as provided by law.
 - (2) Before any person shall operate and maintain a mobile home park in the City, such person shall first obtain a license to do so as provided in this subsection. An application for a license shall be filed with the City Clerk on forms furnished by the municipality. The fee for each license shall be as established by the Council per annum. The Clerk shall submit the license application to the City Council for its approval. Licenses shall expire on January 1 following the date of issuance unless sooner revoked or forfeited.
 - (3) The City Council shall have the power to revoke the mobile home park license of any person who fails to comply to the requirements of this section or any other municipal or state law that is applicable.
 - (4) The City Council shall have the right to vary or modify the strict application of any of the regulations or provisions contained in this

section in cases in which there are practical difficulties or unnecessary hardships in the way of strict application.

State law reference--Regulation of manufactured home parks, Minn. Stats. § 462.357, subd. 1a.

Section 74-219. Manufactured Home Park Closings.

(a) *Intent/purpose.* In view of the unique nature and issues presented by the closure or conversion of manufactured home parks, the City Council finds that the public health, safety and general welfare will be promoted by requiring relocation assistance and/or compensation to displaced homeowners and residents of such parks. The purpose of this Section is to require park owners to pay displaced home owners and residents reasonable relocation costs and purchasers of manufactured home parks to pay additional compensation, pursuant to the authority granted under Minnesota Statutes, Section 327C.095.

(b) *Definitions.* The following words and terms when used in the Section shall have the following meanings unless the context clearly indicates otherwise:

Closure statement means a statement prepared by the park owner clearly stating the park is closing, addressing the availability, location and potential costs of adequate replacement housing within a twenty-five (25) mile radius of the park that is closing and the probable relocation costs of the manufactured homes located in the park.

Displaced resident means a resident of an owner-occupied manufactured home who rents a lot in a manufactured home park, including the members of the resident's household, as of the date the park owner submits a closure statement to the Planning Director, acting on behalf of the Planning Commission.

Lot means an area within a manufactured home park, designed or used for the accommodation of a manufactured home.

Manufactured home means a structure, not affixed to or part of real estate, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on the 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 system contained in it.

Manufactured home park means any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park. This definition does not include facilities that are open only during three or fewer seasons of the year.

Park owner means the owner of a manufactured home park and any person acting on behalf of the owner in the operation or management of the park.

Person means any individual, corporation, firm, partnership, incorporated and unincorporated association or other legal or commercial entity.

Relocations costs incurred. The reasonable cost actually incurred by a displaced resident of relocating a manufactured home from a manufactured home park within the City of Anoka that is being closed or converted to another use to another manufactured home park within a twenty-five (25) mile radius of the park, as follows.

1. *Preparation for move.* Reasonable costs incurred to prepare the eligible manufactured home for transportation to another site. This category includes crane services if needed, but not the cost of wheel axles, tires, frame welding or trailer hitches.
2. *Transportation to another site.* Reasonable costs incurred to transport the eligible manufactured home to another manufactured home park within a twenty-five mile radius. This category also includes the cost of insuring the manufactured home while the home is in the process of being relocated, and the cost of obtaining moving permits. This category does not include the cost of moving personal property separate and distinct from the manufactured home and separate and distinct from the appliances and appurtenances of the manufactured home.
3. *Hook-up at new location.* The reasonable cost of connecting the eligible manufactured home to utilities at the relocation site, including crane services if needed. The park owner shall not be required to upgrade the electrical or plumbing systems of the manufactured home.

Relocation costs do not include the cost of any repairs or modifications to the manufactured home needed to bring the home into compliance with the state and federal manufactured home building standards for the year in which the home was constructed. Relocations costs also do not include the cost of any repairs or modifications to the home or appurtenances needed to bring the home into compliance with the rules and regulations of the manufactured home park to which the manufactured home is to be relocated, if these rules and regulations are no more stringent than the rules and regulations of the park in which the home is located.

- (c) *Notice of closing.* If a manufactured home park is to be closed, converted in whole or part to another use or terminated as a use of the property, the park owner shall, at least nine (9) months prior to the closure, conversion to another use, or termination of use, provide a copy of a closure statement to a resident of each manufactured home and to the Planning Director, acting on behalf of the Planning Commission, and to the Commissioners of Health and the Housing Finance Agency.
- (d) *Notice of public hearing.* The Planning Director shall submit the closure statement to the City Council and request the City Council to schedule a public hearing. The city shall mail a notice at least ten (10) days prior to the public hearing to a resident of each manufactured home in the park and to the park owner stating the time, place and purpose of the hearing. The park owner shall provide the City with a list of names and addresses of at least one resident of each manufactured home in the park at the time the closure statement is submitted to the City.

- (e) *Public hearing.* A public hearing shall be held before the City Council for the purpose of reviewing the closure statement and evaluating what impact the park closing may have on the displaced residents and the park owner. The City Council shall determine the adequacy of the closure statement and direct payment of relocation costs pursuant to this Ordinance.
- (f) *Conditions of closing.*
 - 1. As a condition of closing of the manufactured home park, the park owner shall pay the relocation costs to displaced residents. If the park owner determines less than six (6) months prior to the date of closure of the park that the park will not be closed, the park owner may rescind the Notice of Closure and shall pay any actual relocation costs incurred by any of the park's manufactured home owners. If the park owner determines at six (6) months or more prior to the date of closure of the park that the park will not be closed, the park owner may rescind the notice of closure, and not be liable for any relocation costs.
 - 2. The City shall not issue a building permit in conjunction with the reuse of the manufactured home park property unless the park owner has paid the relocation costs and/or the park purchaser has compensated displaced residents in accordance with the requirements of this Section. Approval of any application for a rezoning, platting, conditional use permit, planned unit development, interim use permit, or variance in conjunction with a park closing or conversion shall be conditioned on compliance with the requirement of this Section.
- (g) *Displaced resident statement.* Within ninety (90) days of receipt of a closure notice, the displaced resident shall provide the park owner with a written statement of relocation costs, or, in the alternative, a written statement that the resident cannot relocate his or her manufactured home to another manufactured home park within a twenty-five (25) mile radius. If a resident determines not to relocate as defined within this section, the resident must state whether he or she elects to receive relocation costs under subsection (h) or (i) below.
- (h) *Election to relocate.*
 - 1. If a manufactured home can be relocated to another manufactured home park within a twenty-five (25) mile radius, the owner of the park shall pay displaced residents' relocation costs as defined herein.
 - 2. The park owner shall make relocation payments directly to contractors providing the relocation services, or shall reimburse the displaced resident directly after the resident submits to the park owner proof of payment or relocation costs. The park owner shall be entitled to receive documentation of relocation cost, including costs of proposals, invoices, estimates and contracts for relocation services.
 - 3. If a displaced resident cannot relocate the manufactured home within a twenty-five (25) mile radius of the park that is being closed or some other agreed upon distance, and the resident elected not to tender a title to the manufactured home, the resident is entitled to relocation costs based upon an average of relocation costs awarded to other residents of

the park, or, if no other homes have been relocated, the reasonable costs of relocating the home within a twenty-five mile radius.

4. A displaced resident compensated under this Section shall retain title to the manufactured home and shall be responsible for its prompt removal from the manufactured home park. All rent due and owing to the park owner, and all property taxes for the current and prior years shall be paid by the displaced resident prior to removing the manufactured home from the park.

- (i) *Election to receive compensation.* If a resident cannot relocate his or her manufactured home to another manufactured home park within a twenty-five (25) mile radius or some other agreed upon distance and tenders title to the manufactured home, the resident is entitled to compensation to be paid by the owner of the park in order to mitigate the adverse financial impact of the park closing. In such instance, the compensation shall be an amount equal to the estimated market value or the tax assessed value of the manufactured home, whichever is greater, as determined by a state licensed independent appraiser experienced in manufactured home appraisal and approved by the City Manager. The owner of the park shall pay the cost of the appraisal or shall reimburse the City for any advances it makes to such appraiser for such cost. The owner of the park shall pay such compensation into an escrow account, established by the owner of the park, for distribution upon transfer of title to the home. The amount otherwise due the displaced resident may be tendered on the date of transfer of title from the escrow account for payment on liens and encumbrances. The resident shall transfer title of the manufactured home to the owner of the park free and clear of all liens and encumbrances. All rent due the property owner and all property taxes for the current and prior years shall be paid by the displaced residents prior to distribution to the displaced resident from the escrow account.

In the event that the owner is unable to locate the title to the manufactured home, the owner of the home shall sign an affidavit setting forth:

1. The inability to locate the title;
2. The homeowner's desire to transfer ownership of the home to the park owner for disposal purposes; and
3. The homeowner's agreement to transfer ownership and releasing the park owner from any liability for the home's eventual disposal.

Compensation under this section shall be paid to the displaced residents no later than ninety (90) days prior to the earlier of closing of the park or its conversion to another use.

- (j) *Limitation of relocation costs and compensation.* The total amount of compensation paid to displaced residents shall not exceed the greater of twenty-five percent (25%) of the City Assessor's estimated market value of the manufactured home park, as determined by the City Assessor for the year in which the park is scheduled to close, or twenty-five percent (25%) of the purchase price of the park, whichever is greater.
- (k) *Proof of residency.* If any disputes arise regarding the right of an individual to receive compensation, the individual can prove a right to compensation by

providing evidence of legal occupancy in the park. Such evidence includes, but is not limited to, legal title to the home, tax records indicating ownership of the home, records from the department of transportation showing ownership of the home, a copy of a signed lease agreement, or proof of payment of rent.

Additionally, any resident on the list provided by the park owner to the city within the closure statement is presumed to be a legal resident.

(l) *Enforcement*

1. A violation of any provisions of this section shall be a misdemeanor.
2. Any provisions of this section may be enforced by injunction or other appropriate civil remedy.

Sections 74-220--74-235.

Reserved.

CHAPTER 74. ZONING

ARTICLE V. District Regulations.

DIVISION 3. Business Districts.

Section 74-236. B-1 Highway Business District.

- (a) *Purpose of district.* The purpose of the B-1 highway business district is to provide for the establishment of service and limited retail businesses primarily oriented toward motorists and requiring high volumes of traffic and visibility from major roads in order that highway service types of land uses can be provided in a manner compatible with the needs for traffic movement and adjacent residential uses.
- (1) Retail store, showroom or service uses, including drive-through establishments.
 - (2) Restaurant or deli, including drive-through establishments or similar uses that provide goods and services to patrons in automobiles.
 - (3) Drying cleaning establishment, provided the cleaning process does not occur on-site.
 - (4) Medical and dental offices or clinics.
 - (5) Hotel or Motel.
 - (6) Mortuaries or funeral homes.
 - (7) Professional offices.
 - (8) Brewpubs.
 - (9) Veterinary clinic, animal hospital, kennel with no outdoor runs.
 - (10) Health, athletic or fitness clubs.
 - (11) Banks, savings and loan, insurance offices.
 - (12) Daycare centers.
 - (13) Grocery store.
 - (14) Liquor store.
 - (15) Parks.
 - (16) Essential services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems, right-of-ways for transportation modes, and telephone switching facilities.
- (c) *Conditional Uses.*

- (1) Automobile sales, trailer sales, and/or any other establishment engaged in the business of selling, leasing, displaying for sale, or renting motorized or licensed vehicles, subject to the conditions as required by this Code or reasonably imposed by the City Council.
- (2) Automobile repair shops.
- (3) Automobile service stations, for the sale of gasoline, oil and accessories.
- (4) Car wash.
- (5) Churches, religious use, places of worship.
- (6) Multiple family uses permitted in the R-4 Residential District.
- (7) Libraries.
- (8) Public schools or private schools having a course of instruction approved by the Minnesota Board of Education for students enrolled in grades K-12, or any portion thereof, provided they do not include boarding or residential facilities.
- (9) Sports arenas, indoor skating rinks, stadiums, dance halls, pool and billiard rooms, bowling alleys and gymnasiums; provided that buildings are located not less than one hundred and fifty feet from any residential district boundary line.
- (10) Trade schools, vocational schools.
- (11) Universities.
- (12) Service business with showroom or workshop, including office-warehouse (contractor, painter, HVAC).
- (13) Boat and marine sales and service.
- (14) Other highway business uses which in the opinion of the City Planning Commission and City Council are similar and which are established for the convenience of the community, but only after a conditional use permit has been secured from the lawful governing body.

(d) *Interim Uses.*

- (1) Overnight parking of more than three (3) mid-sized vehicles.
- (2) Outdoor display of materials such as tires, lumber, building supplies, landscape materials offered for sale at retail.

(e) *Accessory Uses.*

- (1) Uses customarily incidental to the permitted and conditional uses in the B-1 Highway Business District.
- (2) Outdoor seating.

- (3) Outdoor merchandise display (permanent) of seasonal or convenience items (e.g. windshield washer fluid, softener salt) associated with an allowed principal use.
- (4) Accessory Car Wash/Vacuums.
 - a. No more than one car wash bay shall be allowed.
 - b. The car wash shall be designed to be an integral part of the principal building and may not be a separate freestanding structure.
 - c. The site shall provide stacking space for the car wash. The amount of stacking space shall take into account the type of car wash and the amount of time it takes to wash a vehicle. Stacking spaces shall not interfere with parking spaces or traffic circulation.
 - d. The exit from the car wash shall have a drainage system which is subject to the approval of the City and gives special consideration to the prevention of ice build-up during winter months.
 - e. Neither the car wash nor an accessory vacuum shall be located within 300 feet of any residentially zoned or guided property or residential land use, unless completely screened by an intervening building or located across an arterial or major collector roadway from residentially zoned or guided property or residential use.
 - f. Both the car wash and accessory vacuum shall conform to the noise ordinance.
- (f) *Prohibited Uses.*
 - (1) Trucking or package distribution centers.
 - (2) Implement sales and showrooms.
 - (3) Yards for storage, sale and distribution of building materials.
 - (4) Manufacturing/warehousing facilities.
 - (5) Tree care service businesses.
 - (6) Transportation services (ambulance, limousine, package delivery, taxi cab, etc.)
 - (7) Self-storage facility.
 - (8) Any use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

(g) *Height and Setback Regulations.*

B-1 District Commercial	B-1 District Multiple Family Residential
<i>Setbacks</i>	<i>Setbacks</i>
Front: 20 feet	Front: 20 feet
Rear: 20 feet	Rear: 30 feet
Side: 10 feet	Side: 10 feet
<i>Adjacent to Residential</i>	<i>Adjacent to Residential</i>
Front: 25 feet	Front: 25 feet
Rear: 2x the width of the side yard of that which is required in the residential district it borders	Rear: 30 feet
Side: 2x the width of the side yard of that which is required in the residential district it borders	Side: 15 feet
<i>Parking Setbacks</i>	
Front: 10 feet; 20 feet adjacent to residential	
Rear: 10 feet adjacent to single family and two family residential; 5 feet adjacent to multiple family, commercial or industrial	
Side: 10 feet adjacent to single family and two family residential; 5 feet adjacent to multiple family, commercial or industrial	
<i>Height: 3 stories or 40 feet</i>	

- (1) *Lot coverage regulations.* No more than 50 percent of a lot or plat area shall be occupied by buildings and no more than 75% of the lot may be covered by impervious surface. No impervious surface may be closer than 50 feet from the ordinary high water level of the river and must be screen by a natural material.
- (h) *Specific Conditional Use Permit Standards.* The standards in this sub-section apply to the uses that are listed as conditional uses within the B-1 district and shall apply in addition to the general criteria for granting conditional use permits.
 - (1) Drive-through service windows (drive-up facilities). The conditions are as follows:
 - a. Curb-cut entrances for queuing driveways and exit driveways shall be consolidated with any other driveway entrances or exits on the site.
 - b. A minimum of one hundred feet (100') leading to the drive-up window for one lane and sixty feet (60') per lane when more than one lane shall be provided for queuing.
 - c. The queuing area shall not contain any pedestrian crosswalks or sidewalks. Driveway lanes shall be designed to that queuing vehicles do not interfere with other vehicle and pedestrian circulation on the site.
 - d. Driveways shall not be located between a principal building and the street, or if a corner site, all adjacent roadways.

- e. All queuing lanes shall be clearly identified using striping, landscaping, and/or signs. Drive-up windows shall be located to the rear or side of a building.

(2) Automobile sales, trailer sales, and/or any other establishment engaged in the business of selling, leasing, displaying for sale, or renting motorized or licensed vehicles. In addition to the requirements of subsection 74-112(b), the site plan shall show:

- a. Setbacks as follows:
 - 1. Complying with all requirements of the B-1 Highway Business District unless specifically covered by subsection (1) a. 2 of this use.
 - 2. Setbacks shall be physically maintained to prevent vehicle overhang through landscaping, concrete curbing, tire bumper blocks, a fence, or some other approved means.
- b. A plan for the display of vehicles along with the required traffic circulation and parking plan, designating all vehicle storage and display areas with painted striping on a paved surface, providing widths of 12 feet or one-way traffic and 18 feet for two-way traffic, and which will permit any displayed or stored vehicle to be moved off premises without moving any other vehicle.
- c. Adequate employee parking, a minimum of three customer parking spaces, plus one additional parking space for 25 displayed or stored vehicles for the site. All customer parking stalls shall be adequately signed. All parking areas shall be paved.
- d. Site plan shall show a permanent building on footings, with restroom facilities, and connections with sewer and water, all in conformance with the building code, with a minimum of 400 square feet. The exterior building construction shall be consistent with the architectural standards of this section.
- e. A used car lot shall have a total lot area of not less than 1.5 acres.
- f. Positive drainage, including storm sewer basins if necessary to adequately handle runoff, with concrete curbing around the perimeter of the paved display storage area on all sites which have not previously been licensed for used car sales and those sites which cannot otherwise adequately control drainage.
- g. No more than 70 percent of the available parking stalls can be used for displaying vehicles not owned by the licensed car dealer.
- h. Operation of the business shall conform to the approved site plan.
- i. Owner-to-owner sales are not allowed unless specifically provided for in a conditional use permit or amended conditional use permit.

- (3) Automobile Repair Shops.
 - a. All vehicles parked or stored on site shall display a current license plate with a current license tab.
 - b. Outside storage of any kind is prohibited.
 - c. Junk vehicles may not be located outside at any time.
 - d. All vehicles, other than junk vehicles, waiting for repair or pick-up shall be stored on the site within an enclosed building or in parking spaces in compliance with Section 74-266.
 - e. As a condition of approval, the Planning Commission and City Council may limit the amount of vehicles that may be stored overnight.
 - f. All repairs shall be performed within a completely enclosed building.
 - (4) Car wash.
 - a. The site shall provide stacking space for the car wash. The amount of stacking space shall take into account the type of car wash and the amount of time it takes to wash a vehicle. Stacking spaces shall not interfere with parking spaces or traffic circulation.
 - b. The exit from the car wash shall have a drainage system which is subject to the approval of the City and gives special consideration to the prevention of ice build-up during winter months.
 - c. The car wash and accessory equipment (i.e. vacuum) shall conform to the noise ordinance.
 - (5) Any multiple family use permitted in the R-4 Residential District subject to the conditions in Section 74-216 and any others required by this Code or reasonably imposed by the City Council.
- (i) Exterior Site Requirements.
- (1) *Outdoor storage and display.* Outdoor storage of product or merchandise offered at wholesale, material stored for salvage or disposal, or items used in the operation of the business, is prohibited except when specifically permitted elsewhere in this section. Outdoor display of materials such as tires, lumber, building supplies, landscape materials offered for sale at retail is prohibited unless an interim use permit is first obtained and it is demonstrated that such display is not a hazard to the public health, safety, convenience or welfare.
 - (2) *Refuse.* Dumpsters, recycling containers, compactors, and solid waste handling areas are permitted in any setback and shall be screened from adjacent property and from public view with a six foot high solid and

finished masonry wall with closeable gates. In no instance shall a chain link fence, wood, vinyl or barbed wire fence be permitted.

- (3) *Mechanical Screening.* All mechanical equipment on the ground or roof, such as heating and air conditional units and transformers, shall be screened on all sides or placed so as not to be visible from public streets. Such screening shall be compatible with the building. Camouflaging heating and air conditional units is an acceptable method of screening and the intent of the screening is to distract the review of these areas, not to provide total screening.
- (4) *Outdoor Patio Seating.*
- a. The front yard setback may be used as a plaza provided it is constructed according to the requirements in this section.
 - b. A barricade such as fence, landscaping hedge, decorative bollards or similar as approved by the City shall be used to separate the plaza from a public sidewalk to define the space.
 - c. The use must be separated from any adjacent residential use by a building wall or six foot fence. This provision will not apply if the residential use is located on an upper story above the principal use.
 - d. No speakers or other electronic device which emit sounds are permitted if the use is located within 500 feet of a residential use.
 - e. The hours of operation shall be limited to 7:00 a.m. to 10:00 p.m. if the use is located within 500 feet of a residential use.
 - f. Additional parking will not be required if the outdoor seating area does not exceed 500 square feet or ten percent of the gross floor area of the principal use, whichever is less. Parking will be required at the same rate as the principal use for that portion of outdoor seating area in excess of 500 square feet or ten percent of the gross floor area.
 - g. An outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
- (5) *Exterior Lighting.*
- a. Exterior lighting shall be used to provide illumination for the security and safety of entry drives, parking, service and loading areas, pathways, courtyards and plazas, without intruding on adjacent properties and shall comply with the following standards:
 1. Poles and fixtures shall be architecturally compatible with structures and lighting on-site and on adjacent properties.
 2. Security lighting shall be adequate for visibility.

3. Metal halide lighting shall be used with a concealed light source of the "cut off" variety to prevent glare and "light trespass" onto adjacent buildings and sites.
4. Poles within landscaped areas and plazas shall have a maximum height of twenty feet (20'), measured from grade.
5. Poles in parking lots shall have a maximum height of twenty four feet (24') measured from finished grade.

b. Light Intensity.

1. A photometric lighting plan is required for all proposed developments to ensure that adequate and appropriate light levels are provided for each site condition.
2. Lighting shall not exceed .1 foot candle at residential property lines or .5 foot candle on non-residential property lines measured on a vertical plane.
3. Site lighting should provide consistent levels of illumination, avoiding pockets of very high or low levels of illumination.

(6) *Screening.*

- a. All service entrances, utility structures associated with a building, and loading docks and/or spaces shall be screened from the abutting property and from public view from a public street.
- b. Any fences or walls used for screening or other purposes shall be constructed in a durable fashion of brick, stone and other masonry materials specifically designed as fencing materials. The finished side of the fence shall face the abutting property. Chain link, wood, vinyl or barbed wire fences are not permitted.
- c. The composition of the screening material and the placement on the lot shall be left up to the discretion of the property owners as long as the intent of this Section is met. A wall cannot be substituted for a planting strip along any public street unless supplemented by landscaping.
- d. Landscaping used for screening shall be evergreen and at least four feet (4') tall with a minimum spread of two feet (2') when planted and no further apart than five feet (5'). Shrubs shall be adequately maintained so that an average height of five to six feet can be expected as normal growth within four years of planting. The average expected height may be reduced to four feet (4') for screening along public streets.
- e. The maximum height for walls and fences shall be six feet (6') or whatever is sufficient to visually screen the use but not less than four feet (4').

(7) *Landscaping.*

- a. All landscaped areas where sod is present shall be irrigated with an underground sprinkler system. Areas considered natural may be exempt from irrigation requirements as determined by City staff.
- b. Landscaped islands shall be provided in parking lots to break up and soften large areas of paving. At least one tree shall be provided in each island. If possible, portions of stormwater created from parking lots should be collected in the landscaped islands as a source of irrigation.
- c. All areas not covered by impervious surface or landscaping or left natural shall be planted with cultured sod.
- d. All landscaping shall be maintained as to be compliant with the approved landscape plan submitted as part of the site plan approval.

(j) *Architectural Standards.*

- (1) In the B-1 District the primary exterior opaque materials on each elevation of a non-residential building must be brick, stone, decorative masonry, or similar materials or a combination thereof.
- (2) No more than twenty-five percent (25%) of the building exterior opaque materials on each elevation, except for the service side of the building, shall be comprised of the following accent materials:
 - a. Cast stone.
 - b. Wood shingles (cedar shingles with 6-inch maximum exposure).
 - c. Lap siding, cedar or redwood (6 inch width, no diagonal siding).
 - d. Tongue and groove paneling, cedar or redwood (6 inch width, no diagonal siding).
 - e. Copper (untreated).
 - f. Stucco and EFIS.
 - g. Cement board.
 - h. Glass (does not include windows).
 - i. Dark anodized aluminum or metal as accent.
 - j. Materials that are similar in character to those listed above.
- (3) The following materials are not allowed as exterior opaque materials on new buildings.
 - a. Smooth surfaced concrete block.
 - b. Prefabricated steel panels.
 - c. Aluminum, vinyl or fiberglass siding or roofing materials.
 - d. Precast concrete panels, unless specifically approved by the City Council for a new commercial building.
 - e. Painting of previously unpainted brick.
 - f. Wooden exteriors, except for those listed as allowed above.

- (4) Gas station and convenience stores. The gas canopy shall have similar colors and materials to the building fascia.
- (5) Franchises or national chains with standardized architecture and signage shall comply with the standards contained in this section. Aggressive or bright signage must be altered and scaled down to meet the intentions of these standards.
- (6) Facades.
 - a. Visual Breaks. The exterior of new buildings shall be designed with visual breaks through the use of decorative tile work, masonry (but not flat concrete block), belt courses of a different texture and color, projection cornices, medallions, opaque or translucent glass, artwork, vertical articulation, lighting fixtures, or architectural elements not listed herein as approved by the City Council.
 - b. Width. A building more than 45 feet in width shall be divided into increments of no more than 45 feet through articulation of the façade. This can be achieved through combinations of the following techniques:
 - 1. Division or breaks in materials.
 - 2. Window bays.
 - 3. Special treatment at entrances.
 - 4. Subtle variations in rooflines and parapet detailing.
 - 5. Building setbacks.
 - 6. Awnings.
 - 7. Repetitive elements.
- (7) LEED (Leadership in Energy and Environmental Design) Standards. The City encourages the use of sustainable building materials and construction techniques through programs such as the U.S. Green Building's Council's LEED Program.
- (8) Alternative Designs or Materials. To encourage creativity, imagination, innovation, and variety in architectural design, the Planning Commission may recommend modifications of the requirements of this Section and the City Council may approve such modifications upon determining that the proposed architectural design or exterior façade material(s) meets all of the following conditions:
 - a. The proposed design or material is consistent with the purposes of this section.
 - b. The proposed design or material would enhance the architectural appearance of the building and would be equal or superior to designs or materials permitted by this section.
 - c. The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding district.

- (9) Multiple-family residential. In addition to the regulations in this subsection, architectural control and appearance shall be regulated as follows:
- a. Facades.
 1. Visual Breaks. The exterior of new building shall be designed with visual breaks through the use of decorative tile work, masonry (but not flat concrete block), belt courses of a different texture and color, projecting cornices, medallions, opaque or translucent glass, artwork, vertical articulation, lighting fixtures, or architectural elements not listed herein as approved by the City Council.
 2. Width. A building more than 45 feet in width shall be divided into increments of no more than 45 feet through articulation of the façade. This can be achieved through combination of the following techniques:
 - aa. Division of breaks in materials.
 - bb. Window bays.
 - cc. Special treatment at entrances.
 - dd. Subtle variations in rooflines and parapet detailing.
 - ee. Building setbacks, façade recesses and projections.
 - ff. Awnings.
 - gg. Repetitive elements.
 - b. Exterior Materials and Detailing.
 1. New buildings and structures, additions, and revocations must be constructed of durable materials.
 2. In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following:
 - aa. An intermediate cornice line.
 - bb. A difference in building materials or detailing.
 - cc. An offset in the façade.
 - dd. An awning, loggia, or arcade.
 - ee. Special window lintels.
 - ff. Brick/stone corbels.
 3. The exterior opaque materials on each respective elevation of a multiple family residential building must be brick, stone, decorative masonry or similar materials or a combination thereof according to the following: Public Façade: 50%; Side Façade: 33%; Interior Façade: 25%. The brick, stone, or decorative masonry shall be focused on prominent architectural features, particularly the office components of the building, elevations that include primary building entrance or multiple tenant

entrances, corners of buildings, and the prominent building elevations front on public streets.

4. The remaining percentage of the building exterior opaque materials shall be comprised of the following materials:

- aa. Cast stone.
- bb. Wood shingles (cedar shingles with 6-inch maximum exposure).
- cc. Lap siding, cedar or redwood (6 inch width, no diagonal siding)
- dd. Tongue and groove paneling, cedar or redwood (6 inch width, no diagonal siding)
- ee. Copper (untreated).
- ff. Stucco and EFIS.
- gg. Cement board.
- hh. Glass (does not include windows).
- ii. Dark anodized aluminum or metal as accent.
- jj. Materials that are similar in character to those listed above.

5. The following materials are not allowed as exterior materials:

- aa. Smooth surfaced concrete block.
- bb. Pre-fabricated steel panels.
- cc. Aluminum, vinyl or fiberglass siding or roofing materials.
- dd. Pre-cast concrete panels, unless specifically approved by the City Council for a new commercial building.
- ee. Painting of previously unpainted brick or concrete block.
- ff. Wooden exteriors, except for those listed as allowed above.

- (10) Accessory building and garages. Exterior wall finishes of accessory buildings and garages shall have the same exterior finish as the main structure or other compatible finish approved during site plan review. No detached garages or accessory building shall be closer to the front lot line than the principal structure. Such structure shall be set back behind the principal building regardless of the existing front yard setback of the principal building.

(k) Parking Requirements.

- (1) General regulations. Parking shall be as required under Chapter 74, Article IX, Division 2.

- a. In instances where parking areas abut the street, the parking lot edge must be delineated with landscaping, architectural fencing or other decorative features.

- (2) Off-street parking of large vehicles. The following standards shall apply:

- a. Oversized vehicles are prohibited from overnight parking if visible from a public street.
- b. No more than three (3) midsized vehicles that are visible from a public street may be parked overnight on any one property used for commercial purposes provided that sufficient off-street parking is available. Such midsized vehicles must be used primarily for business related purposes of a business located on the same property.
- c. Vehicles on residential property are regulated by Section 74-487 of this Chapter.
- d. This section shall not prohibit vehicles or trailers from short-term parking or when loading, unloading, or rendering a service.
- e. This section shall not regulate the size of vehicles for sale, lease or rent provided such vehicles are located upon a property that has obtained a conditional use permit for such use.

(I) General standards applying to all properties adjacent to residential.

- (1) Screening. Commercial uses adjacent to residential uses shall be screened by walls of buildings, screening fence and/or landscaping compatible with the principal building and surrounding land uses as approved by the City. A minimum 6 foot high fence and/or landscaping shall be maintained along the property lines adjacent to residential to provide screening of the site.
- (2) Noise. No impact noise shall be audible from any residential property, consistent with the noise ordinance.
- (3) Vehicle storage. Outside vehicle storage shall be screened any abutting residential uses.
- (4) Outdoor activities. Any outdoor activities included but not limited to patio seating shall be limited to the hours of 7:00am – 10:00pm. This does not include outdoor areas for smoking purposes.
- (5) Access. Primary access from local residential streets shall be prohibited.
- (6) Specific land uses.
 - a. Gas station or convenience store. The conditions are as follows:
 - 1. The fuel sales are incidental to a retail store.
 - 2. Wherever fuel pumps are to be installed, pump islands shall be installed.
 - 3. Provisions are made to control and reduce noise.
 - 4. All signing and information or visual communication devices shall be minimized toward residential uses and in compliance with the sign ordinance.

- b. Animal handling. The conditions are as follows:
 - 1. No animals or pens shall be kept outside the building or cause offensive odor or noise discernible at the property line of the lot on which the activity is being conducted.
 - 2. Where animals are boarded, the facility shall be located a minimum of 100 feet from any parcel that is zoned residential and used or subdivided for residential or has an occupied institutional building, including but not limited to schools, religious institutions, and community centers.
 - c. Drive through service windows (drive-up facilities). The conditions are as follows:
 - 1. If the drive-up facility is adjacent to residential, such facility shall establish sound barriers and be screened from vehicle lights in stacking areas.
 - 2. The hours of operation are limited to 7:00am to 10:00pm unless extended by the City Council as part of a conditional use permit.
- (7) The City may impose further conditions for uses to protect the health, safety, and general welfare of the public.
- (m) Application of Standards. The B-1 Highway Business standards apply to the following:
- (1) All newly constructed buildings, structures or additions.
 - a. New additions may use exterior materials that are similar to the existing structure materials.
 - (2) All exterior improvements or renovations.
 - (3) All new or reconstructed parking areas with five (5) or more spaces.
- (n) Exemptions. The following are exempt from this Section:
- (1) Projects involving only work, maintenance or repairs to the interior of a building or structure.
 - (2) Projects involving only ordinary maintenance or the replacement of similar or identical materials of an existing building.
- (o) Pre-existing structures. Any building, structure, parking area or sign that lawfully exists on the effective date of this Ordinance, which is otherwise not permitted under this Ordinance, may be continued in the same manner as existed before the effective date of this Ordinance. Buildings that are destroyed by an act of nature may be reconstructed with similar materials as existed prior to

being destroyed. All redevelopment of properties shall be subject to the requirements of this Section.

- (p) Compliance. No conditional use permit, interim use permit, site plan approval, building permit, or sign permit shall be issued until the requirements of this Section have been met. It is the applicant's responsibility to provide the necessary information to City staff to determine compliance with this Section.
- (q) Approval Process.
 - (1) Site Plan Procedures. All development proposals under this section shall be reviewed under the site plan approval process as set forth in this chapter.
- (r) Enforceability.
 - (1) Violation. Unless expressly provided otherwise, it shall be a misdemeanor for any person or entity to violate any provision of the City Code, including this Section, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Section. The term "misdemeanor" is defined in Minnesota Statutes Section 609.02, subd. 3, as amended. In addition to prosecuting a violation as a misdemeanor, the City may separately, or in conjunction with the misdemeanor prosecution, bring an action for specific performance to enforce any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of such provision, or any order lawfully enforcing the City Code, including this Section.

Section 74-237.

B-2 Shopping Center Business District.

- (a) *Purpose of district.* The B-2 shopping center business district is intended to provide a district which may be applied to land in single ownership or unified control for the purpose of developing a planned business center with a unified and organized arrangement of buildings and service facilities at locations which are suitable for such use.
- (b) *Permitted uses.* Within a B-2 shopping center business district, no building or land shall be used except for one or more of the following uses:
 - (1) Any use permitted in the B-1 Highway Business District; except that no dwellings shall be permitted.
 - (2) Antique or gift shop.
 - (3) Appliance store.
 - (4) Art and school supply.
 - (5) Auto accessory store.
 - (6) Artist's studio.
 - (7) Bakery or pastry shop selling retail only.
 - (8) Bowling Alley.

- (9) Bank and savings institutions.
- (10) Barber or beauty shop.
- (11) Bicycle sales and repair shop.
- (12) Book or stationary store.
- (13) Bus station.
- (14) Business, commercial or trade schools.
- (15) Department store.
- (16) Discount store.
- (17) Candy, ice cream, soft drinks or confectionery stores, excluding drive-in type of service.
- (18) Camera or photographic supply store.
- (19) Carpet and rug store.
- (20) Churches.
- (21) Classrooms.
- (22) Clinics, for people only.
- (23) Clothing stores.
- (24) Community Centers.
- (25) Dancing, gymnastics, or martial arts school.
- (26) Delicatessen.
- (27) Drug store.
- (28) Dry cleaning or laundry collection stations.
- (29) Electrical appliance or equipment store.
- (30) Essential services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer, rights-of way for transportation modes, and telephone switching facilities.
- (31) Fitness and health clubs, gyms.
- (32) Florists or gift shops.
- (33) Furniture store, including upholstery when conducted as a secondary use.
- (34) Glass, china or pottery store.

- (35) Grocery, fruit or vegetable store.
- (36) Hardware store.
- (37) Hobby store.
- (38) Interior decorating studio.
- (39) Jewelry store and watch repair.
- (40) Leather goods and luggage shop.
- (41) Library.
- (42) Loan and finance companies.
- (43) Meat market but not including the processing of meat products other than those sold on the premises.
- (44) Music shops.
- (45) Music studios and musical instrument store.
- (46) Newsstand.
- (47) Offices, business or professional, including ticket sales.
- (48) Paint, wallpaper stores.
- (49) Pet shop.
- (50) Photographers studio.
- (51) Plumbing, television or radio repair when operated as an accessory use to a retail sales establishment.
- (52) Postal substation.
- (53) Restaurant, tearoom, café, tavern and package liquor stores excluding drive-in type of service.
- (54) Sewing machine sales and service shop.
- (55) Shoe store or shoe repair shop.
- (56) Sporting goods store.
- (57) Tailor shop.
- (58) Telephone booth (outside).
- (59) Theater, excluding drive-in type of service.
- (60) Tobacco shop.

- (61) Toy store.
 - (62) Taxi stand.
 - (63) Service stations for gasoline and oil, excluding motor, body or fender repair, provided, that they are designed as an integral part of the district.
 - (64) Video store.
 - (65) Brewpubs.
- (c) *Permitted accessory uses.* Within a B-2 shopping center business district, the following uses shall be permitted accessory uses:
- (1) Accessory uses customarily incidental to the uses permitted in section 36-51; provided, that any incidental repair or processing necessary to conduct a permitted use shall not occupy more than 30 percent of the floor space.
 - (2) Off-street parking and loading as regulated by this Chapter.
 - (3) Signs as regulated by this Chapter.
- (d) *Interim Uses.*
- (1) Other uses that in the opinion of the City Council are similar to the permitted uses in the B-2 Shopping Center Business District and that are established for the convenience of the community.
- (e) *Prohibited Uses.*
- (1) Any use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted use, conditionally permitted or interim use upon amendment of this Chapter.
- (f) *Height, yard, area and lot coverage regulations.* Height, yard, area and lot coverage regulations for the B-2 shopping center business district shall be as follows:
- (1) *Height regulations.* No building shall hereafter be erected or structurally altered in a B-2 district to exceed three stories or 40 feet in height.
 - (2) *Front yard regulations.* There shall be a front yard having a depth of not less than 50 feet; except that on every lot in a B-2 shopping center business district located across the street from any one of the classes of residence districts there shall be a front yard of not less than 75 feet.
 - (3) *Side yard regulations.* There shall be a side yard on each side of a building, having a width of not less than 30 feet; except, that no building shall be located within 50 feet of any side lot line abutting a lot in any of the classes of residence districts.

- (4) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 30 feet; except, that no building shall be located within 50 feet of any rear lot line abutting a lot in any of the classes of residence districts.
 - (5) *Lot area regulations.* The minimum area of land to be included in a B-2 Shopping Center Business District shall be at least 2½ acres.
 - (6) *Lot coverage.* Not more than 40 percent of the lot or plot area shall be occupied by buildings.
 - (7) *Outdoor storage and display.* Open storage of products or merchandise offered at wholesale, material stored for salvage or disposal, or items used in the operation of the business, is prohibited. Open display of materials such as tires, lumber, building supplies, or landscape materials offered for sale at retail is prohibited unless a conditional use permit is first obtained. Open display of other products or merchandise offered for sale at retail is allowed, provided that the City Council may require a conditional use permit for any exterior display if it is demonstrated that such display is a hazard to the public health, safety, convenience, or welfare.
 - (8) *Refuse.* All waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes and housed in a refuse enclosure or within a building. Refuse enclosures shall screen garbage containers on three sides and shall have a concrete floor.
- (g) *General regulations.* General regulations for the B-2 shopping center business district shall be as follows:
- (1) All business shall be conducted within an enclosed yard or building.
 - (2) Additional regulations in the B-2 shopping center business district are set forth in various sections of this Chapter.
- (h) *Administrative procedure.*
- (1) The proponents of a B-2 shopping center business district shall submit a general development plan, along with the application for rezoning, to the City Planning Commission for their review and recommendation to the City Council. The general development plan shall be drawn to scale and the plan shall show:
 - a. The proposed site and existing developments on adjacent properties.
 - b. Proposed size, location and arrangement of buildings.
 - c. Parking areas and stall arrangement.
 - d. Entrance and exit drives.
 - e. Landscaping.
 - f. Dimensions.

- (2) If the zoning change is approved, the general development plan is attached to and is a part of the ordinance establishing the zoning change. Any substantial change in the plan will require a resubmission to and approval by the City Planning Commission and City Council.
- (3) If the zoning change is approved, the first phase of construction must begin within two years after approval of the general development plan and zoning change by ordinance or the district may be zoned back to its original zoning district classification or other appropriate zoning district classification.
- (4) Owner or developer must agree to comply with all the requirements of the City regarding lighting, noise abatement, traffic control and regulation, maintaining order and keeping the premises free from debris.

Section 74-238.

B-3 General Business District.

- (a) *Purpose of district.* The B-3 general business district is designed to accommodate the central retail and office activities, which are of citywide and of regional significance with a wide variety of retail shopping opportunities. The retail and office uses, which are allowed in this district are those which are basically retail in nature in order that a convenient, compact regional shopping area can be provided. the B-3 District also accommodates residential uses that compliment the central business district activities and that can benefit from existing commercial and public services and facilities.
- (b) *Use regulations.*
 - (1) *Permitted Uses.* The following uses shall be considered permitted uses in the B-3 General Business District:
 - a. Any use permitted in the B-1 Highway Business District, unless specifically listed as a conditional or prohibited use in this Section.
 - b. Hotel or motel.
 - c. Retail store.
 - d. Restaurant or Deli.
 - e. Office, agency or studio.
 - f. Bank, savings and loan association, insurance.
 - g. Personal Service and repair establishments such as barber and beauty shops, shoe repair, etc.
 - h. Clinic medical, dental, veterinary.
 - i. Employment agency.
 - j. Personal service and craftsman shop.
 - k. Municipal and public buildings and utility structures.

- l. Grocery store.
- m. Parking-garage or lot.
- n. Newspaper publishing; job printing establishment.
- o. Theatre.
- p. Club, lodge.
- q. Confectionery shop that is primarily retail.
- r. Incidental repair or processing necessary to conduct a permitted use; provided, that such use shall not occupy more than thirty percent of the floor space.
- s. Essential services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems, rights-of-way for transportation modes, and telephone switching facilities.
- t. Brewpubs.
- u. Microbrewery with taproom, subject to the following standards:
 - 1. The establishment must include a taproom that is open a minimum of 2 days or 8 hours per week.
 - 2. The malt liquor sold for consumption at the business must be produced by the brewer on the licensed premises.
 - 3. The malt liquor may be sold to other bars, restaurants or wholesalers for distribution on a limited scale according to Federal and State regulations.
 - 4. The bottling process shall be manual or semi automated, not fully automated.
 - 5. The establishment shall obtain all applicable Federal, State, and City licenses.
 - 6. A microbrewery located at street level shall provide at least 50% of the total floor space at the front one-half of the building to be used for sales, tasting, or restaurant purposes.
- v. Microdistillery with tasting room/cocktail room, subject to the following standards:
 - 1. The establishment must include a tasting room/cocktail room that is open a minimum of 2 days or 8 hours per week.

2. The distilled spirits sold for consumption at the business must be produced by the brewer on the licensed premises.
3. The distilled spirits may be sold to other bars, restaurants or wholesalers for distribution on a limited scale according to Federal and State regulations.
4. The bottling process shall be manual or semi-automated, not fully automated.
5. The establishment shall obtain all applicable Federal, State, and City licenses.
6. A microdistillery located at street level shall provide at least 50% of the total floor space at the front one-half of the building to be used for sales, tasting, or restaurant purposes.

- (2) *Accessory Uses.* The following shall be considered Accessory Uses:
- a. Uses customarily incidental to the permitted and conditional uses in the B-3 General Business District.
- (3) *Conditional Uses.* The following shall be considered Conditional Uses in the B-3 General Business District:
- a. Place of amusement, recreation, or assembly other than a theatre, when conducted indoors.
 - b. Libraries.
 - c. Churches.
 - d. Hospitals.
 - e. Any multiple family use permitted in the R-3 residential district subject to the following conditions in addition to any others required by this Code or reasonably imposed by the Council:
 1. Setbacks:
 - aa. *Front yard regulations.* In the B-3 general business district no front yard shall be required except as follows: On every lot in the district of which the front is directly opposite of any classes of residential districts (across the street) there shall be a front yard of not less than 25 feet. Off-street parking may be allowed in the required front yard provided a 10-foot setback is required and when across from a residential district provided a 20-foot setback is required from any street right-of-way.

- bb. *Side yard regulations.* In the B-3 central business district there shall be no side yard required except as follows: Along the side of every lot in the district that abuts or adjoins any classes of residential districts there shall be a side yard of not less than 15 feet. Such side yard may be used for off-street parking and loading provided a 10-foot setback is provided when abutting a single or two family residential district and 5 feet when abutting a multiple family, commercial or industrial district.
 - cc. *Rear yard regulations.* In the B-3 Central Business District no rear yards shall be required. Rear yards may be used for off-street parking and loading provided a 10-foot setback is provided when abutting a single or two family residential district and 5 feet when abutting a multiple family, commercial or industrial district.
2. *Lot Coverage.* No more than 30% of the total area of a riparian lot shall be covered with an impervious surface unless adequate measures are taken to control the rate and enhance the quality of runoff.
 3. *Height.* No building shall hereafter be erected or structurally altered in the B-3 district to exceed 3 stories or 40 feet.
 4. *Parking.* Off-street parking shall be determined as necessary by the Planning Commission and City Council.
 5. *Lot area requirements.* For newly constructed buildings, lot area requirements shall follow the requirements for multiple family structures as required in Article V, Division 2, Section 74-215 of this chapter. Existing buildings do not need to meet lot area requirements.
 6. *Floor area requirements.* Floor area requirements shall follow the requirements for multiple family dwellings as required in Article V, Division 2, Section 74-211 of this chapter.
- f. Schools, public and private.
 - g. Any use of the same general character as any of the B-3 permitted or conditional uses.
- (4) *Prohibited Uses.* The following are Prohibited Uses:
- a. Automobile service stations, gasoline and oil stations.

- b. Cabinet and carpenter shops.
 - c. Carting or hauling stations.
 - d. Distribution stations for milk or other beverages.
 - e. Fabrication and light manufacturing.
 - f. Implement sales and showrooms.
 - g. Yard for storage, sale and distribution of building materials.
 - h. Any use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.
- (c) *Heights, yard and design regulations.* Heights, yard and design regulations for the B-3 general business district shall be as follows:
- (1) *Height regulations.* No building shall hereafter be erected or structurally altered in a B-3 district to exceed a height equal to the width of the street upon which it fronts. Towers or spires may exceed the height allowed upon securing of a conditional use permit from the lawful governing body.
 - (2) *Area and design regulations.* Area and design regulations shall be as follows:
 - a. A complete plot plan showing the building or buildings and surrounding land areas of the entire project must be submitted for approval.
 - b. A complete set of building plans and specifications certified by a registered architect and engineer, sewerage disposal, and water supply plans must accompany the plot plan.
 - c. Additional area and design requirements may be imposed so as to establish a B-3 general business district which will best serve the general welfare and benefit of the entire City.
 - d. Off-street parking and loading spaces shall be provided as required in Article IX, Division 2 of this Chapter.
 - (3) *Front yard regulations.* In the B-3 general business district no front yard shall be required except as follows: On every lot in the district the front of which is directly opposite any of the classes of residential districts (across the street) there shall be a front yard of not less than 25 feet which may not be used to provide off-street parking or loading spaces.
 - (4) *Side yard regulations.* In the B-3 general business district no side yard shall be required except as follows:

- a. Along that side of every lot in the district that abuts or adjoins any of the classes of residential districts there shall be a side yard of a width not less than the width of a side yard required in the residential district.
 - b. As required to conform with article IX, division 2 of this Chapter.
- (5) *Rear yard regulations.* In the B-3 general business district, no rear yards shall be required, except provision shall be made for off-street loading and unloading of merchandise and supplies.
- (6) *Amount of impervious surface.* No more than 30 percent of the total lot area of a riparian lot shall be covered with an impervious surface unless adequate measures are taken to control the rate and enhance the quality of runoff.
- (7) *Distance of impervious surface from river.* No impervious surface for the purpose of roads or parking areas may be closer than 50 feet from the ordinary high water level of the river and must be screened by natural material.
- (8) *Buildings near river.* No building may be closer than 75 feet from the ordinary high water level of the river and must be screened from the river by mature trees. Buildings within the Rum River Overlay District may not exceed 35 feet in height unless fully screened from the river by mature trees. Such buildings in excess of 35 feet in height shall not exceed the height of mature trees nor be clearly visible from the river at the ordinary high water level on the opposite bank.
- (9) *Width of riparian residential lots.* All riparian residential lots shall have a width of not less than 75 feet.
- (10) *Outdoor storage and display.* Open storage of products or merchandise offered at wholesale, material stored for salvage or disposal, or items used in the operation of the business, is prohibited. Open display of materials such as tires, lumber, building supplies, or landscape materials offered for sale at retail is prohibited unless a conditional use permit is first obtained. Open display of other products or merchandise offered for sale at retail is allowed, provided that the City Council may require a conditional use permit for any exterior display if it is demonstrated that such display is a hazard to the public health, safety, convenience, or welfare.
- (11) *Refuse.* All waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes and housed in a refuse enclosure or within a building. Refuse enclosures shall screen garbage containers on three sides and shall have a concrete floor.

Section 74-239.

B-4 Limited Business District.

- (a) *Purpose of district.* The B-4 limited business district is intended to provide a district for a limited range of office or professional service needs at the periphery of residential neighborhoods or integrated with residential uses. The district is established to provide locations for businesses that typically serve nearby neighborhoods. Because of compatibility factors adjacent to residential uses, other

non-retail uses may be permitted only with a conditional use permit. The district is typically located near the intersection of collectors and thoroughfares in areas that are otherwise developed with residences.

(b) *Use regulations.*

- (1) *Permitted Uses.* A building or premises in a B-4 District shall be used only for the following purposes:
- a. Clinics, medical offices.
 - b. Convalescent and nursing homes.
 - c. Financial institutions.
 - d. Laboratories – medical, dental.
 - e. Mortuaries, funeral homes, monument sales.
 - f. Motel, hotel, or apartment hotel.
 - g. Offices: administrative, executive, professional, governmental, medical, research, without merchandising services.
 - h. Personal service and repair establishments such as barber and beauty shops, shoe repair, etc.
 - i. Coffee shop/delicatessen.
 - j. Professional portrait studio and film shop.
 - k. Retail services such as eyeglass fitting, quick printing, tailor shops, photo pick-up stations, etc.
 - l. Single Family dwellings.
 - m. A State licensed residential facility or a housing with services establishment registered under Minnesota Statutes Chapter 144 D, serving six (6) or fewer persons as allowed under Minnesota Statutes 462.357 Subd. (7), as amended.
 - n. A State licensed day care facility serving twelve or fewer persons as allowed under Minnesota Statutes 462.357 Subd. 7, as amended.
 - o. A group family day care facility licensed under Minnesota Rules 9502.0315 to 9502.0445, to serve fourteen (14) or fewer children as allowed under Minnesota Statutes 462.357 Subd. 7, as amended. A conditional use permit obtained pursuant to Section 74-112 of the Code is required for the operation of such schools or facilities on non-residential premises within this zone. Residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes related to sex offenses or

have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

- (2) *Accessory Uses.* Uses that are customarily incidental to permitted and conditional uses in the B-4 Highway Business District.
 - (3) *Conditional Uses.* The following are permitted conditional uses:
 - a. Any permitted business use if the lot is adjacent to any Residential District.
 - b. Convention hall, armory, exhibition hall.
 - c. Offices with merchandising services.
 - d. Planned Business Development which has a principal use any permitted or conditional use allowed in this section, and may have any other permitted or conditional use as a secondary use(s).
 - e. Churches.
 - f. Residential living units as secondary use to principal business use.
 - g. Accessory structures, other than garages.
 - h. State licensed daycare facilities.
 - i. Hospitals.
 - j. Libraries.
 - k. Public schools or private schools having a course of instruction approved by the Minnesota Board of Education for students enrolled in grades K-12, or any portion thereof, provided they do not include boarding or residential facilities.
 - l. Other commercial uses determined by the City Council to be of the same general character of the permitted and conditional uses above and found not to be detrimental to the general public health and welfare.
 - (4) *Prohibited Use.* Any use not specifically listed as permitted or conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.)
- (c) *Minimum lot size.* In the B-4 limited business district the lot area shall be large enough to meet the requirements of this section and all other applicable sections contained in this chapter.

- (d) *Minimum setbacks.* Minimum setbacks in the B-4 limited business district shall be as follows:
 - (1) Building setbacks are established as follows: from another building 25 feet; from street or street right-of-way 25 feet; adjacent residential district 20 feet; adjacent to commercial or other district, side yard ten feet, rear yard ten feet; parking and drives ten feet.
 - (2) Parking and drives shall be setback from: street right-of-way--ten feet; adjacent residential district--20 feet (the planning commission may reduce to five feet when the use on the abutting property is a nonresidential use); other adjacent property--five feet.
- (e) *Maximum lot coverage.* In the B-4 limited business district no more than 40 percent of a lot shall be covered by buildings.
- (f) *Maximum building height.* Building heights in the B-4 limited business district shall not exceed three stories or 40 feet.
- (g) *Landscaping.* In the B-4 limited business district at least 15 percent of the lot area shall be landscaped. A buffer yard or green space with a minimum depth of 20 feet shall be provided in the B-4 limited business district adjacent to an abutting residential district. The planning commission may waive this requirement when the use on the abutting property is a nonresidential use.

Section 74-240.

B-5 Regional Business District.

- (a) *Purpose of district.* The purpose of the B-5 Regional Business District (B-5 District) is to provide an area intended to promote commercial development, including retail, office, entertainment, service and other complimentary uses serving a trade area beyond the City boundaries. Development should be designed in an integrated and unified manner according to an overall plan emphasizing minimal impacts to adjacent land use, encouraging pedestrian activity, and have attractive and high quality buildings, decorative lighting, landscaping, signage, sidewalks and trails.
- (b) *Definitions:* For purposes of this Section, the following words and phrases shall have the meanings ascribed to them by this Section or Section 74-2 of the City Code. Words not defined shall have the plain meaning generally ascribed to them.
 - (1) *Restaurant, sit down.* An establishment engaged in the preparation and retail sale of food and beverages, which is characterized by table service to customers and that is not a convenience or fast food restaurant.
 - (2) *Restaurant, convenience.* An establishment which sells ready-to-eat foods, in bulk or individual servings, primarily for consumption off the premises, and is not a fast food restaurant.
 - (3) *Restaurant, fast food.* An establishment whose design or principal method of operation includes three (3) or more of the following characteristics.
 - a. A permanent menu board is provided from which to select and order food.
 - b. Customers pay for food before consuming it.

- c. A self-service condiment bar is provided.
 - d. Trash receptacles are provided for self-service bussing.
 - e. Most main course food items are substantially prepared or cooked on premises and packaged in individual, non-reusable containers.
- (c) *District Boundaries.* The B-5 District is as shown on the official zoning map and is further divided into two sub districts:
- (1) North – Generally located north of the road connection from 7th Avenue to the western boundary of the district.
 - (2) South – Generally located south of the road connection from 7th Avenue to the western boundary of the district.
- (d) *Permitted Uses.*
- (1) B-5 District- North.
 - a. Corporate office campus and retreats
 - b. Professional offices
 - c. Laboratories – Medical, dental
 - d. Medical/Dental/veterinary clinic/hospital
 - e. Personal service uses (barber, nails, tanning) but not including tattooing, branding, body piercing or similar establishments.
 - f. Sit down Restaurant
 - g. Brewpub
 - h. Convenience and fast food restaurant when not located in their own freestanding building.
 - i. Retail, when not in an individual space greater than 15,000 sf.
 - j. Hotel
 - k. Bank/Financial Institution
 - l. Drug Store/Pharmacy
 - m. Dance Studio
 - n. Coffee shops
 - o. Ice cream shop
 - p. Toy store
 - q. Photographer's studio
 - r. Pet shop
 - s. Jewelry store
 - t. Florist or gift shop
 - u. Professional portrait studio and film shop
 - v. Essential services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems, rights-of-way for transportation modes, telephone switching facilities, and fiber optic.
 - (2) B-5 District- South
 - a. Personal service uses (barber, nails, tanning) but not including tattooing, branding, body piercing or similar establishments.
 - b. Sit-Down Restaurant
 - c. Brewpub
 - d. Retail
 - e. Hotel

- f. Medical/Dental/veterinary clinic/hospital
- g. Bank/Financial Institution
- h. Drug Store/Pharmacy
- i. Dance Studio
- j. Grocery store
- k. Movie Theatre
- l. Health, athletic or fitness clubs
- m. Coffee shop
- n. Convenience and fast food restaurant when not located in their own freestanding building.
- o. Ice Cream shop
- p. Toy store
- q. Sporting goods store
- r. Photographer's studio
- s. Pet shop
- t. Jewelry store
- u. Florist or gift shop
- v. Hardware store
- w. Professional portrait studio and film shop
- x. Essential services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems, rights-of-way for transportation modes, telephone switching facilities, and fiber optic.

- (e) *Conditional uses.* The following are conditional uses in the B-5 District:
 - (1) Drive-thru/up window or teller service as accessory to the permitted use.
 - (2) Building heights exceeding the lesser of three stories or 40 feet in height.
 - (3) Other business uses which in the opinion of the City Planning Commission and City Council are similar and which are established for the convenience of the community, but only after a conditional use permit has been secured from the City Council.
- (f) *Interim Uses.*
 - (1) Outdoor Display and Sales associated with the business.
- (g) *Accessory Uses.*
 - (1) Uses customarily incidental to the permitted and conditional uses in the B-5 District.
- (h) *Prohibited Uses.*
 - (1) Auto oriented uses including but not limited to repair, gas/service station, car wash and sales.
 - (2) Pawn Shops
 - (3) Residential uses
 - (4) Fast-food restaurants located in a freestanding building

(5) Any use not specifically listed as permitted, conditionally permitted, or permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

(i) *Height and setback regulations.* Height and setback regulations for the B-5 District shall be as follows:

(1) *Height regulations.* No building shall hereafter be erected or structurally altered in a B-5 district to exceed three stories or 40 feet in height, whichever is less. Greater heights may be allowed upon issuance of a conditional use permit.

(2) *Building Setbacks to Public Right-Of-Way.* Setbacks from 7th Avenue and Bunker Lake Boulevard shall be a minimum of 25 feet and a maximum of 40 feet. A minimum setback of 10 feet shall be provided from all other right-of-way.

(3) *Building Setbacks to Adjacent Property.* A minimum setback of 10 feet shall be provided to adjacent property except as noted otherwise in this Section. This setback requirement does not apply to buildings with common walls and a zero lot line development.

(4) *Parking and Drives.* A minimum setback of 25 feet shall be provided from 7th Avenue and Bunker Lake Boulevard except that parking may not be located in front of the building setback line. A minimum setback of 10 feet shall be provided from all other right-of-way. A minimum setback of 5 feet shall be provided from all other adjacent property except as noted otherwise in this Section.

(5) *Setbacks to City Limits and Anoka Nature Preserve.* A minimum setback of 25' for a building and 50' for a parking lot/drive shall be provided from adjacent city limits and the Anoka Nature Preserve.

(6) *Lot coverage regulations.* Not more than 50 percent of a lot shall be covered by buildings and no more than 75% of a lot may be covered by impervious surface.

(j) *Exterior Site Requirements.*

(1) *Outside Storage.* Outdoor storage is prohibited except for shopping cart corrals and maintenance equipment storage as shown on an approved site plan. The cart corrals shall be used for the temporary storage of carts. Area for the storage of materials and equipment directly related to site maintenance and safety shall be completely screened in an enclosure constructed of materials similar to and compatible with the principal structure.

(2) *Service Areas.* Areas for loading, truck parking, trash compaction and collection, and other service functions shall be designed with the same exterior materials and to complement the overall design of the buildings being served by them. Such areas shall be screened from view of adjacent lots, public streets, and building entries. Trash enclosures shall be

screened with a six-foot masonry wall enclosure and gate or located in the service area.

(3) *Mechanical Screening.* All mechanical equipment on the ground or roof, such as heating and air conditioning units and transformers, shall be screened on all sides or placed so as not to be visible from public streets. Such screening shall be compatible with the building. Camouflaging heating and air conditioning units is an acceptable method of screening and the intent of the screening is to distract the view of these areas, not to provide total screening.

(4) *Exterior Lighting.*

a. Exterior lighting shall be used to provide illumination for the security and safety of entry drives, parking, service and loading areas, pathways, courtyards and plazas, without intruding on adjacent properties and shall comply with the following standards:

1. Poles and fixtures shall be architecturally compatible with structures and lighting on-site and on adjacent properties.
2. Security lighting shall be adequate for visibility.
3. Metal halide lighting shall be used with a concealed light source of the "cut-off" variety to prevent glare and "light trespass" onto adjacent buildings and sites.
4. Poles within landscaped areas and plazas shall have a maximum height of twenty feet (20'), measured from grade.
5. Poles in parking lots shall have a maximum height of 24 feet measured from finished grade.

b. Light intensity.

1. A photometric lighting plan is required for all proposed commercial developments to ensure that adequate and appropriate light levels are provided for each site condition.
2. Lighting shall not exceed .1 foot candle at residential property lines or .5 foot candle on non-residential property lines measured on a vertical plane.
3. Site lighting should provide consistent levels of illumination, avoiding pockets of very high or low levels of illumination.

(5) *Landscaping.*

a. All landscaped areas where sod is present shall be irrigated with an underground sprinkler system. Areas considered natural may

be exempt from irrigation requirements as determined by city staff.

- b. Landscaped islands shall be provided in parking lots to break up and soften large areas of paving. At least one tree shall be provided in each island. If possible, portions of stormwater created from parking lots should be collected in the landscaped islands as a source of irrigation.
- c. All areas not covered by impervious surface or landscaping or left natural shall be planted with cultured sod.
- d. All landscaping shall be maintained as to be compliant with the approved landscape plan submitted as part of the site plan approval.

(6) *Parking area screening from 7th Avenue, Bunker Lake Boulevard, and City Limits.* All parking lots abutting any of the above mentioned shall be screened by one of the following:

- a. *Planting screen.* A planting screen consisting of a row of alternating evergreen shrubs and deciduous trees. The deciduous trees shall be a minimum of two to 2½ inches caliper and shall be spaced not more than 15 feet apart. Shrubs shall be a minimum of two to three feet in height at time of planting, with a mature height of four to six feet, and shall be spaced between the trees in such proximity as will form a screen. Planting screens shall be maintained in a neat and healthy condition. As an alternative, a planting screen may consist of a continuous row of evergreen trees, no less than four feet in height at time of planting and ten feet apart.
- b. *Berm.* A berm no less than six feet in height with a side slope of no greater than 1½ to two. The berm shall be sodded or seeded, mulched, and maintained until sod develops. Slopes greater than 1½ to two may be used if the slopes are stepped, using retaining walls. Plant materials resistant to erosion may be substituted for sod or seed with the prior approval of the City Council.
- c. *Others.* Topography, existing vegetation, permanent buildings, or other barriers may be substituted for the provisions of this subsection, if in the determination of the Planning Commission and City Council they provide equivalent screening.

(k) *Parking Requirements.*

(1) Required number of off-street parking spaces based on use shall be determined by regulations set forth in Section 74-522 of the city zoning code.

(l) *Architectural Standards.*

(1) In the B-5 District the primary exterior opaque materials on each elevation of a building must be brick, stone, decorative masonry, rock faced concrete block or similar materials or a combination thereof.

- (2) In the B-5 District no more than twenty-five percent (25%) of the building exterior opaque materials on each elevation shall be comprised of the following accent materials:
- a. Cast stone
 - b. Copper
 - c. Stucco and EFIS.
 - d. Cement board
 - e. Glass (does not include windows)
 - f. Aluminum
 - g. Materials that are similar in character to those listed above.
- (m) *Signs.* Signage shall be designed to be integral with the architectural character of the building to which they belong. Specifically, the scale, proportion and color shall be appropriate to the building to which the sign is attached. Elements to be considered include architectural appearance, sign size, type of illumination, sign motion, sign setback, surface colors, and items of information. The architectural appearance of the sign shall not be so dissimilar to the existing signage on surrounding buildings as to cause impairment in property value or constitute a blighting influence.
- The following sections shall also apply to signs within the B-5 District: Section 74.446 General Regulations; Section 74.447 Temporary Signs; and Section 74.445 Exempt Signs. If provisions of this section are in conflict with other standards in this chapter, the most restrictive shall apply.
- (1) The total surface area of business signs for a business shall not exceed four (4) square feet per linear foot of building frontage.
 - (2) No single business sign surface shall exceed 200 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 200 square feet.
 - (3) Pylon signs are prohibited.
 - (4) Monument signs are permitted for individual businesses on the property the businesses are located on. No monument sign or any part thereof may project higher than ten feet (10') above average grade at the building line. All portions of the sign must be set back a minimum of five feet (5') from the property line. Monument signs may not exceed forty (40) square feet and shall be included in the total calculation for site signage.
 - (5) One entrance monument sign for the development is permitted at each of the primary entrances from 7th Avenue and Bunker Lake Boulevard. No monument sign or any part thereof may project higher than ten feet (10') above average grade. All portions of the sign must be set back a minimum of five feet (5') from the property line. Monument signs may not exceed 300 square feet. The intent of the entrance monument is to identify businesses within the development.
 - (6) No rooftop signs shall be permitted.
 - (7) Integral roof signs are permitted.

- (8) Consistently changing, flashing, moving, rotating, traveling, or scrolling electronic variable signs are prohibited.
 - (9) LED signs shall be prohibited.
- (n) *Site Plan Approval Process.*
- (1) *Procedures.* All development approvals shall be required pursuant to Section 74-38 of the Anoka City Code as amended.
- (o) *Enforceability.*
- (1) *Violation.* Unless expressly provided otherwise, it shall be a misdemeanor for any person or entity to violate any provision of the City Code, including this Article, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Article. The term “misdemeanor” is defined in Minnesota Statutes Section 609.02, subd. 3, as amended. In addition to the prosecuting of a violation as a misdemeanor, the City may separately, or in conjunction with the misdemeanor prosecution, bring an action for specific performance or abatement to enforce any provisions of the City Code, including this Article, any rule or regulation adopted in pursuance of such provision, or any order lawfully enforcing the City Code, including this Article.

Section 74-241.

B-6 Neighborhood Commercial Business District

- (a) *Purpose and Intent of District.* The purpose of the B-6 Neighborhood Business Commercial District (B-6 District) is to provide appropriately located areas for low intensity retail stores, offices, and personal service establishments patronized by residents of the neighborhood area. The uses allowed in this district are to provide goods and services on a limited community market scale and located in areas which are well served by collector or arterial street facilities at the edge of residential districts. It is intended that the standards will achieve the following specific purposes:
- (1) Maintain the visual environment of the City, protect the general welfare, and ensure that the City’s property values, buildings, designs, appearance, character, and economic well-being are preserved and respected through minimum design and appearance standards;
 - (2) Reinforce and support a healthy development pattern in which new buildings and building modifications maintain the City’s unique character and heritage through complementary and appropriate use of building materials, massing and architectural details;
 - (3) Encourage a diversity of uses and activities that promote pedestrian activity;
 - (4) Promote the use of quality construction;
 - (5) Enhance the visual and aesthetic appeal of the corridor;
 - (6) Group compatible business uses that will draw trade that is naturally compatible and promotes the business prosperity and public convenience;

- (7) Protect the private investors who commit to redevelopment;
 - (8) Encourage creativity, imagination, innovation, and variety in architectural design and building composition through design principles that promote harmony in the physical relationships between residential and commercial structures and compatible land uses.
- (b) *Application of Standards.* The B-6 District standards apply to the following:
- (1) All newly constructed buildings, structures or additions.
 - a. New additions may use exterior materials that are similar to the existing structure materials.
 - (2) All exterior improvements or renovations.
 - (3) Changes in exterior color to any building within district.
- (c) *Exemptions.* The following are exempt from this Section:
- (1) Projects involving only work, maintenance or repairs to the interior of a building or structure.
 - (2) Projects involving only ordinary maintenance or the replacement of similar or identical materials of an existing building.
- (d) *Pre-existing structures.* Any building, structure, parking area or sign that lawfully exists on the effective date of this Ordinance, which is otherwise not permitted under this Ordinance, may be continued in the same manner as existed before the effective date of this Ordinance. Buildings that are destroyed by an act of nature may be reconstructed with similar materials as existed prior to being destroyed. All redevelopment of properties shall be subject to the requirements of this Section.
- (e) *Compliance.* No conditional use permit, interim use permit, site plan approval, building permit, or sign permit shall be issued until the requirements of this Section have been met. It is the applicant's responsibility to provide the necessary information to City staff to determine compliance with this Section.
- (f) *Permitted, Conditional, Interim, Accessory and Prohibited Uses.*
- (1) Permitted Uses.
 - a. Retail stores
 - b. Retail services such as eyeglass fitting, quick printing, tailor shops, photo pick-up stations, etc.
 - c. Dine in restaurants
 - d. Fast-food restaurants without drive-through
 - e. Offices, such as administrative, executive, professional, governmental, medical, research, without merchandising services
 - f. Medical and dental clinics and offices

- g. Bakeries
- h. Dry-cleaning pick-up
- i. Assisted living facilities
- j. Police and fire stations
- k. Banks, savings and loan, insurance offices
- l. Personal service and repair establishments such as barber, beauty shops, shoe repair, etc.
- m. Hardware and craftsman shops
- n. Grocery stores/Specialty food markets
- o. Coffee shops
- p. Brew pubs
- q. Liquor stores
- r. Tobacco shops
- s. Professional portrait studios and film shops
- t. Pet grooming
- u. Sign making
- v. Dance and music studios, martial arts, judo, boxing
- w. Laundromats
- x. Clubs, lodges
- y. Health/Wellness centers or clubs
- z. Parks
- aa. Mortuaries, funeral homes and chapels
- bb. Veterinary clinics, animal hospital; no outdoor runs
- cc. Photocopying, printing, publishing
- dd. Flower shop
- ee. Mail order business
- ff. Essential facilities and services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for

water and sewer systems, rights-of-way for transportation modes, and telephone switching lines

- (2) Conditional Uses.
- a. Fast food restaurants with drive through
 - b. Drive-up windows or teller service as accessory use to permitted use
 - c. Churches, religious use, place of worship
 - d. Libraries
 - e. Public or private schools provided they do not include boarding or residential facilities
 - f. Trade schools, vocational schools, colleges, universities, institutions of higher learning
 - g. Outdoor activities other than patio seating when property is located adjacent to residential
 - h. State licensed facilities serving from 7 through 16 persons
 - i. State licensed day care facilities serving from 13 through 16 persons
 - j. Two family dwellings
 - k. Two to Six family dwellings
 - l. Townhouses, rowhouses (not to exceed eight units per building or six in a linear configuration) and each dwelling unit shall have separate and individual front and rear entrances and solid walls of at least five feet in height and 12 feet in length extending to the rear of each dwelling unit so as to substantially enclose on at least three sides a semiprivate outdoor space
 - m. Multiple dwellings, apartments
 - n. Automobile service stations, gasoline and oil stations.
 - 1. Pump, pump islands, and canopies may be located in the front yard, except where located directly across from a residential, and provided they are not less than fifteen (15') from the property line.
 - 2. Temporary promotional signs affixed to freestanding signs, pumps, pump islands, canopies, or any structure other than the main structure shall be prohibited.
 - o. Automobile repair shops.

1. All vehicles waiting for repair or pick-up shall be stored on the site within an enclosed building or in parking spaces in compliance with off-street parking regulations.
2. All repairs shall be performed within a completely enclosed building.
3. All vehicles parked or stored on-site shall display a current license plate with a current license tab. Outside storage of automotive parts or storage of junk vehicles shall be prohibited except within an approved enclosed storage area.
4. The sales of vehicles shall be prohibited.
5. The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet (10') above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor tight fittings to preclude the escape of gas vapors from the fill pipes.

p. Car wash.

1. The site shall provide stacking space for the car wash. The amount of stacking space shall take into account the type of car wash and the amount of time it takes to wash a vehicle. Stacking spaces shall not interfere with parking spaces or traffic circulation.
2. The exit from the car wash shall have a drainage system which is subject to the approval of the City and gives special consideration to the prevention of ice build-up during winter months.
3. The car wash and accessory equipment (ie. vacuum) shall conform to the noise ordinance.

q. Any other uses found to be of the same general character of the permitted uses.

(3) Interim Uses.

- a. Overnight parking of more than three (3) mid-sized vehicles

(4) Accessory Uses.

- a. Transit facilities
- b. Information kiosks
- c. Farmer's markets

- d. Outdoor patio seating
 - e. Outdoor merchandise display (permanent) of seasonal or convenience items (e.g. windshield washer fluid, softener salt) as an accessory use in association with an allowed principal use provided that:
 - 1. The area so occupied shall not exceed 10 percent of the gross floor area of the principal building or 100 square feet, whichever is less.
 - 2. No display of merchandise shall occur within the required front, rear, or side yards.
 - 3. Such outdoor display of merchandise shall be limited to the area of customer entrance areas or within pump islands. No outdoor business display shall be located where it obstructs the line of sight of passing motorists.
 - 4. Such outdoor display of merchandise shall not exceed five feet in height.
 - 5. Such outdoor display area shall be included in the calculations for parking spaces required for the use and shall not occupy space required for parking as regulated by the City Code, except as may be exempted for cause by the Zoning Administrator.
 - f. Accessory Car Wash/Vacuums.
 - 1. No more than one car wash bay shall be allowed.
 - 2. The car wash shall be designed to be an integral part of the principal building, and may not be a separate freestanding structure.
 - 3. The site shall provide stacking space for the car wash. The amount of stacking space shall take into account the type of car wash and the amount of time it takes to wash a vehicle. Stacking spaces shall not interfere with parking spaces or traffic circulation.
 - 4. The exit from the car wash shall have a drainage system which is subject to the approval of the City and gives special consideration to the prevention of ice build-up during winter months.
 - 5. The car wash and accessory equipment (ie. vacuum) shall conform to the noise ordinance.
- (5) Prohibited Uses.
- a. Transportation services (ambulance, limousine, package delivery, taxi cab, etc.)

- b. Self-storage facility
- c. Manufacturing/warehousing facilities
- d. Yards for storage, sale and distribution of building materials
- e. Multi-screen movie theatres with more than five screens
- f. Hospitals
- g. Tree care services
- h. Any uses not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

(g) *Bulk and Dimensional Standards.*

- (1) The following table establishes bulk and dimensional standards:

Properties not adjacent or abutting residential

	Minimum	Maximum
Building Height	---	40 feet
Building Coverage	---	50%
Impervious surface	---	85%
Multiple Family Residential Setbacks		
Front	20 feet	45 feet
Side	10 feet	---
Rear	30 feet	---
Commercial/Mixed Use		
Front	10 feet	20 feet
Side	10 feet	---
Rear	20 feet	---
Parking setback		
Front	10 feet	---
Side	5 feet	---
Rear	5 feet	---

- (2) For particular property lines adjacent to residential, the following table shall be used. For the purpose of this subsection, properties with residential across right of way shall not be considered as adjacent to or abutting residential.

Properties adjacent or abutting residential

	Minimum	Maximum
Building Height	---	40 feet
Building Coverage	---	50%

Impervious surface	---	85%
Multiple Family Residential Setbacks		
Front	20 feet	45 feet
Side	15 feet; 20 feet for 3 stories	---
Rear	30 feet	---
Commercial/Mixed Use		
Front	10 feet	20 feet
Side	Twice the width of the side yard of that which is required in the residential district it borders	---
Rear	Twice the width of the side yard of that which is required in the residential district it borders	---
Parking Setbacks	5 feet adjacent to multiple family; 10 feet adjacent to single family and two family residential	---

(3) Density standards for residential uses. The density for residential uses shall be no less than 4 units, but not more than 20 units per acre.

(4) Garages and Accessory Buildings:

- a. Where the principal use is a single-family dwelling, garages shall contain at least four hundred forty (440) square feet and not more than one thousand fifty-six (1,056) square feet.
- b. For two-family units, garages shall not contain less than four hundred (400) square feet and not more than one thousand fifty-six (1,056) square feet of floor area.
- c. An accessory building shall be attached to and made structurally part of the principal building if it is less than five (5) feet from the principal building.
- d. For single-family and two-family residential uses, the total area of all accessory building on a lot, including attached garage space, shall not exceed one thousand two hundred (1,200) square feet.
- e. For single-family and two-family residential uses, a lot shall contain no more than three (3) accessory buildings, including attached.
- f. Exterior wall finishes of accessory building shall have the same exterior finish as the main structure or other compatible finish approved during site plan review. No detached garages or

accessory building shall be closer to the front lot line than the principal structure. Such structure shall be set back behind the principal building, regardless of the existing front yard setback of the principal building.

(h) *Architectural Standards.*

(1) Facades.

a. Visual breaks. The exterior of new buildings shall be designed with visual breaks through the use of decorative tile work, masonry (but not flat concrete block), belt courses of a different texture and color, projecting cornices, medallions, opaque or translucent glass, artwork, vertical articulation, lighting fixtures, or architectural elements not listed above as approved by the City Council.

b. Width. A building more than 45 feet in width will be divided into increments of no more than 45 feet through articulation of the facade. This can be achieved through combinations of the following techniques:

1. Division or breaks in materials
2. Window bays
3. Special treatment at entrances
4. Subtle variation in roof lines and parapet detailing
5. Building setbacks
6. Awnings
7. Repetitive increments

c. Color Schemes. All exterior finish colors shall be consistent with the acceptable color palettes currently on file with the city planning department charged with such oversight.

(2) Exterior Materials and Detailing.

a. New buildings and structures, additions and renovations must be constructed of durable materials.

b. Where the original façade has been removed and replaced with an unsympathetic alteration, the reinstatement of earlier styles in keeping with the character of the building is encouraged.

c. In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following:

1. An intermediate cornice line
2. A difference in building materials or detailing
3. An offset in the façade
4. An awning, trellis, loggia or arcade
5. Special window lintels
6. Brick/stone corbels

- d. The primary exterior opaque materials on each elevation of a building, except for the service side, must be brick, stone, decorative masonry, or similar materials or a combination thereof.
- e. No more than twenty-five percent (25%) of the building exterior opaque materials on each elevation, except for the service side of the building, shall be comprised of the following accent materials:
 - 1. Cast stone
 - 2. Wood shingles (cedar shingles with 6-inch maximum exposure)
 - 3. Lap siding, cedar or redwood (6 inch width, no diagonal siding)
 - 4. Tongue and groove paneling, cedar or redwood (6 inch width, no diagonal siding)
 - 5. Copper (untreated)
 - 6. Stucco and EFIS
 - 7. Cement board
 - 8. Glass (does not include windows)
 - 9. Dark anodized aluminum or metal as accent
 - 10. Materials that are similar in character to those listed above.
- f. The following materials are not allowed as exterior opaque materials on new buildings:
 - 1. Smooth concrete block
 - 2. Pre-fabricated steel panels
 - 3. Aluminum, vinyl or fiberglass siding or roofing materials
 - 4. Pre-cast concrete panels, unless specifically approved by the City Council for a new commercial building
 - 5. Painting of previously unpainted brick
 - 6. Wooden exteriors, except for those listed as allowed above.
- g. LEED (Leadership in Energy and Environmental Design) Standards. The City encourages the use of sustainable building materials and construction techniques in through programs such as the US Green Building's Council's LEED program.
- h. Alternative Designs or Materials. To encourage creativity, imagination, innovation, and variety in architectural design, the Planning Commission may recommend modifications of the requirements of this Section and the City Council may approve such modifications upon determining that the proposed architectural design or exterior facade material(s) meets all of the following conditions:
 - 1. The proposed design or material is consistent with the purposes of this section.

2. The proposed design or material would enhance the architectural appearance of the building, and would be equal or superior to designs or materials permitted by this section.
 3. The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding district.
 - i. The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.
- (3) Franchise or National Chain Architecture.
- a. Franchises or national chains with standardized architecture and signage shall comply with the standards contained in this Section. Aggressive and bright signage must be altered and scaled down to meet the intentions of these standards.
- (4) Exterior Lighting.
- a. Exterior lighting shall be used to provide illumination for the security and safety of entry drives, parking, service and loading areas, pathways, courtyards and plazas, without intruding on nonadjacent properties and shall comply with the following standards:
 1. Poles and fixtures shall be architecturally compatible with structures and lighting on-site and on adjacent properties.
 2. Security lighting shall be adequate for visibility, but not overly bright.
 3. Metal halide lighting shall be used with a concealed light source of the "cut-off" variety to prevent glare and "light trespass" onto adjacent buildings and sites.
 4. Poles within landscaped areas and plazas shall have a maximum height of twenty feet (20'), measured from grade, and shall be coordinated with city standards.
 5. Poles in parking lots shall have a maximum height of 24 feet (24') measured from finished grade.
 6. Lighting fixtures mounted directly on structures shall be permitted when utilized to enhance specific architectural elements or to help establish scale or provide visual interest.
 7. "Wall paks" shall be permitted only in loading and service areas and shall be down-lit and shielded from view.

8. Shielded illumination or fixtures shall be permitted to light building mounted signage, building facades, or pedestrian arcades if they are integrated into a building's architectural design.
9. Lighting should highlight entrances, art, terraces, and special landscape features.
10. Separate pedestrian scale lighting or other low level fixtures, such as bollards, shall be incorporated for all pedestrian ways through parking lots and drop-off areas at entrances to buildings.
11. All primary walkways, steps or ramps along pedestrian routes shall be illuminated.

b. Light intensity.

1. A photometric lighting plan is required for all proposed commercial developments to ensure that adequate and appropriate light levels are provided for each site condition.
2. Lighting shall not exceed 0.1 foot candle at residential property lines or 0.5 foot candle on non-residential property lines measured on a vertical plane.
3. The following minimum levels of illuminations must be maintained for each of the specific locations.*

Building entrances	5.0 foot candles
Sidewalks	2.0 foot candles
Bikeways	1.0 foot candles
Courts/Plazas/Terraces	1.5 foot candles
Ramps	5.0 foot candles
Stairways	5.0 foot candles
Underpasses	5.0 foot candles
Waiting Areas	1.0 foot candles
Parking lots	1.0 foot candles
Roadways	1.5 foot candles

* Values given are in minimum average maintained horizontal foot candles which are measured at the average point of illumination between brightest and darkest areas, 4' – 5' above the ground surface. (Source: IES Lighting Handbook – 4th Edition)

4. Site lighting should provide consistent levels of illumination, avoiding pockets of very high or low levels of illumination.

(5) Outdoor Seating, Plazas and Patios.

- a. The front yard setback abutting a street may be used as a plaza provided it is constructed according to the requirements listed in this subsection.
 - b. A barricade such as fence, landscaping hedge, decorative bollards or similar as approved by the City shall be used to separate the plaza from a public sidewalk to define the space.
 - c. The use must be separated from any adjacent residential use by building wall or six foot fence. This provision will not apply if the residential use is located on an upper story above the principal use.
 - d. No speakers or other electronic devise which emit sound are permitted if the use is located within 500 feet of a residential use.
 - e. The hours of operation shall be limited to 7:00am to 10:00pm if the use is located within 500 feet of a residential use.
 - f. Additional parking will not be required if the outdoor seating area does not exceed 500 square feet or ten percent of the gross floor area of the principal use, whichever is less. Parking will be required at the same rate as the principal use for that portion of outdoor seating area in excess of 500 square feet or ten percent of the gross building area, whichever is less.
 - g. An outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
- (i) *Utility Areas, Mechanical Equipment and Screening.*
- (1) **Mechanical Screening.** All mechanical equipment on the ground or roof, such as heating and air conditioning units and transformers, shall be screened on all sides or placed so as not to be visible from public streets. Such screening shall be compatible with the building. Camouflaging heating and air conditioning units is an acceptable method of screening and the intent of the screening is to distract the view of these areas, not to provide total screening.
 - (2) **Service Areas and Refuse.** Areas for loading, truck parking, trash compaction and collection, and other service functions shall be designed with the same exterior materials and to complement the overall design of the buildings being served by them. Such areas shall be screened from view of adjacent lots, public streets, and building entries. Trash enclosures shall be screened with a six-foot masonry wall enclosure and gate or located in the service area.
 - (3) **Outdoor Storage.** Outdoor storage shall be prohibited except when specifically permitted elsewhere in this section.
- (j) *General standards applying to all properties adjacent to residential.*
- (1) **Screening.** Commercial uses adjacent to residential uses shall be screened by walls of buildings, screening fence and/or landscaping compatible with

the principal building and surrounding land uses as approved by the City. A minimum 6 foot high fence and/or landscaping shall be maintained along the property lines adjacent to residential to provide screening of the site.

- (2) Noise. No impact noise shall be audible from any residential property, consistent with the noise ordinance.
- (3) Vehicle storage. Outside vehicle storage shall be screened from any abutting residential uses.
- (4) Outdoor activities. Any outdoor activities included but not limited to patio seating shall be limited to the hours of 7:00am – 10:00pm. This does not include outdoor areas for smoking purposes.
- (5) Access. Primary access from local residential streets shall be prohibited.
- (6) Specific land uses.
 - a. Gas station or convenience store.
 - 1. The fuel sales are incidental to a retail store.
 - 2. Wherever fuel pumps are to be installed, pump islands shall be installed.
 - 3. Provisions are made to control and reduce noise.
 - 4. All signing and information or visual communication devices shall be minimized toward residential uses and in compliance with the sign ordinance.
 - b. Animal handling. The conditions are as follows:
 - 1. No animals or pens shall be kept outside the building or cause offensive odor or noise discernible at the property line of the lot on which the activity is being conducted.
 - 2. Where animals are boarded, the facility shall be located a minimum of 100 feet from any parcel that is zoned residential and used or subdivided for residential or has an occupied institutional building, including but not limited to schools, religious institutions, and community centers.
 - c. Drive through service windows (drive-up facilities). The conditions are as follows:
 - 1. If the drive-up facility is adjacent to residential, such facility shall establish sound barriers and be screened from vehicle lights in stacking areas.
 - 2. The hours of operation are limited to 7:00am to 10:00pm unless extended by the City Council as part of a conditional use permit.

- (7) The City may impose further conditions for uses to protect the health, safety, and general welfare of the public.
- (k) *Landscaping.* The use of window boxes, hanging flower baskets, vines and/or other seasonal landscaping is encouraged. Window boxes, hanging baskets and planters should be used around entries. Vines may be used to cover blank walls.
- (l) *Parking Requirements.*
 - (1) General regulations. Off-street parking and loading spaces shall be provided as required in Article IX, Division 2 of this chapter.
 - (2) Off-street parking of large vehicles. The following standards shall apply:
 - a. Oversized vehicles are prohibited from overnight parking if visible from a public street.
 - b. Storage of mid-size vehicles associated with the company are permitted only in screened areas approved by the City.
 - c. No more than three (3) midsized vehicles that are visible from a public street may be parked overnight on any one property used for commercial purposes provided that sufficient off-street parking is available. Such midsized vehicles must be used primarily for business related purposes of a business located on the same property.
 - d. Vehicles on residential property are regulated by Section 74-487 of this Chapter.
 - e. Overnight parking of semi tractors and/or trailers, dump trucks, fire trucks, buses, recreational vehicles, boats, farm trucks or tractors, tank trucks, stored vehicles and special mobile equipment are prohibited regardless of length, height, or gross vehicle weight.
 - f. This section shall not prohibit vehicles or trailers from short-term parking or when loading, unloading, or rendering a service.
 - g. This section shall not regulate the size of vehicles for sale, lease or rent provided such vehicles are located upon a property that has obtained a conditional use permit for such use.
 - (3) Parking lots. In instances where parking areas abut the street, the sidewalk edge must be delineated with landscaping, architectural fencing or other decorative features.
 - (4) Vehicular circulation and parking. Parking and vehicular circulation shall comply with the following standards:
 - a. Parking drives and drive through service windows (drive-up facilities) should be located away from building entrances, be designed to minimize pedestrian conflicts, and shall not be located between the main building entrance and the street.

- b. Access for all commercial uses shall be from a roadway identified in the comprehensive plan as a collector or arterial or otherwise located so that access can be provided without generating significant traffic on local residential streets.
- (m) *Signs.* Signage shall be designed to be integral with the architectural character of the building to which they belong. Specifically, the scale, proportion and color shall be appropriate to the building to which the sign is attached. Elements to be considered include architectural appearance, sign size, type of illumination, sign motion, sign setback, surface colors, and message. The architectural appearance of the sign shall not be so dissimilar to the existing signage on surrounding buildings as to cause impairment in property value or constitute a blighting influence. Signage shall be consistent with Section 74-449. The following sections shall also apply to signs within the B-6 district: Section 74-446 General Regulations; Section 74-447 Temporary Signs; and Section 74-445 Exempt Signs. Residential signs shall be regulated by the provisions in Chapter 74, Article VIII related to residential signs.
 - (1) Business signs, and nameplate signs are permitted, subject to the following regulations:
 - a. One identification sign, not to exceed 32 square feet in area, for private educational institutions, community centers, rest homes, nursing homes, and dental offices. It may be illuminated, but non-flashing. A second sign may be permitted if located at a primary entrance on a major thoroughfare.
 - b. For business and professional office buildings, a business sign not exceeding 40 square feet in surface area or four percent of wall area upon which it is placed, whichever is greater, and indicating only the name and address of the building, occupant or management, may be displayed. For corner lots, two such signs, one facing each street, shall be permitted but may be combined to have one sign not to exceed 60 square feet.
 - c. Notwithstanding the provisions in subsection (1) b of this section, business signs for multi-tenant centers shall be regulated as follows:
 - 1. A multi-tenant center will be allowed a freestanding nameplate sign not exceeding 60 square feet in surface area.
 - 2. The City may recognize separate sign plans for multi-tenant buildings which will supersede the ordinance. The sign plans which have been approved by the City Council will have the effect of a sign ordinance for specific property. The procedure for approval of sign plans that exceeds the limits of this Code shall be that of a variance described in this chapter.
 - d. Notwithstanding the provisions in subsection (1) (a) of this section, business signs for single-tenant conditional or permitted uses shall be limited to 200 square feet in area, including all

signs, with not more than 150 square feet of signage attached to the building and not more than 60 square feet of ground sign. Businesses which have frontage on two (2) arterial streets may have two (2) pylon signs, but may not exceed 200 square feet of total signage.

- (2) In the B-6 highway business district, no sign shall project higher than 25 feet above average grade at the building line or the height of the building, whichever is greater. Integral roof signs are permitted in the B-6 district.

- (3) All signs and signposts must be placed at a minimum of five feet setback from the property line in the B-6 neighborhood commercial business district.

(n) *Approval Process.*

- (1) Site Plan Procedures. All development proposals under this section shall be reviewed under the site plan approval process as set forth in this chapter.

(o) *Enforceability.*

- (1) Violation. Unless expressly provided otherwise, it shall be a misdemeanor for any person or entity to violate any provision of the City Code, including this Section, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Section. The term "misdemeanor" is defined in Minnesota Statutes Section 609.02, subd. 3, as amended. In addition to prosecuting a violation as a misdemeanor, the City may separately, or in conjunction with the misdemeanor prosecution, bring an action for specific performance to enforce any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of such provision, or any order lawfully enforcing the City Code, including this Section.

Sections 74-242--74-255.

Reserved.

CHAPTER 74. ZONING

ARTICLE V. District Regulations.

DIVISION 4. Industrial Districts.

Section 74-256. M-1 Light Industrial District.

- (a) *Purpose of district.* The M-1 Light Industrial District is established to provide exemplary standards of development for certain industrial uses that prefer to be located in choice of strategic sites. The M-1 Light Industrial District is intended for administrative, wholesaling, manufacturing and related uses which can maintain high standards of appears, including open spaces and landscaping; limit external effects such as noise, odors, smoke and vibration; and not require a high level of public services. With proper control, these areas should become compatible with commercial or residential areas.
- (b) *Permitted uses.* The following are permitted uses in the M-1 Light Industrial District:
- (1) Art equipment supplier – manufacturers.
 - (2) Bags, boxes and paper containers, manufacturing and storage.
 - (3) Baker products.
 - (4) Bottling establishments.
 - (5) Books, loose-leaf binders – fabrication and assembly.
 - (6) Cabinet and woodworking establishments.
 - (7) Books and Bookbinding.
 - (8) Camera and photographic manufacturing.
 - (9) Cold Storage Plants.
 - (10) Commercial printing, publishing, engraving and reproduction firms.
 - (11) Confectionary and related products, manufacture and packaging.
 - (12) Dental Instruments and supplies.
 - (13) Dry cleaning and drying establishments.
 - (14) Electric lighting and wiring equipment – manufacture.
 - (15) Electric measuring and testing equipment – manufacture.
 - (16) Electric tubes and other components – manufacture.
 - (17) Electrical products and appliances – manufacture and assembly.

- (18) Fabricated metal products – warehousing and administration.
- (19) Food and kindred products – warehousing and administration only.
- (20) Footwear – manufacture and fabrication.
- (21) Furniture and fixtures – warehousing and administration only.
- (22) Hand and edge tools (except machine tools) – manufacturing and assembly.
- (23) Hardware warehousing and distribution operations.
- (24) Ice plants and ice cream plants.
- (25) Jewelry manufacture.
- (26) Laboratory instruments and associated equipment, scientific and testing.
- (27) Luggage, handbags, similar items – manufacture and assembly.
- (28) Lumber and wood products.
- (29) Mail order houses.
- (30) Medical and surgical instruments and supplies.
- (31) Machine tool – manufacture.
- (32) Newspaper plants and offices.
- (33) Optical instruments and lenses – manufacture and assembly.
- (34) Paper and allied products – warehousing and administration.
- (35) Patterns – design and manufacture.
- (36) Pottery shops.
- (37) Precision instruments.
- (38) Plastic extrusion and molding and fixture.
- (39) Plumbing fixture and equipment – wholesale.
- (40) Radio and television – assembly and parts fabrication.
- (41) Sport equipment – manufacture and assembly.
- (42) Scientific and research instruments and equipment – manufacture and assembly.
- (43) Signs and advertising display materials.
- (44) Stone, Clay and glass products – warehousing and administration.

- (45) Telephone and telegraph technical apparatus – manufacture and assembly.
 - (46) Temperature controls – fabrication and assembly.
 - (47) Textile products – warehousing and administration only.
 - (48) Trade Schools.
 - (49) Welding supply.
 - (50) Wholesale business facilities.
 - (51) Manufacturing of building materials.
 - (52) Office uses directly related to the above uses.
 - (53) Brewery, Micro.
 - (54) Brewery, National.
 - (55) Brewery, Regional.
- (c) *Conditional Uses.* The following uses may be allowed only upon the City's issuance of a Conditional Use Permit:
- (1) Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods or products similar to those permitted uses which conform with the performance standards set forth in this district.
 - (2) Other manufacture, processing, storage or commercial uses as determined by the Planning Commission to be of the same general character as the permitted uses above and found not to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, oxidation, smoke, dust, odors, toxic or noxious matters or glare or heat.
 - (3) Retail and service establishments providing goods and services that are complimentary to the principal uses in the district.
 - (4) Broadcast antenna, radio and television.
 - (5) Daycare facility.
- (d) *Accessory Uses.* The following are considered accessory uses:
- (1) Uses customary with and incidental to the principal use are permitted, but shall not exceed thirty (30) percent of the gross floor area of the principal use.
 - (2) Signs, off-street parking and loading areas as regulated by this chapter.
 - (3) Taprooms.

(e) *Prohibited Uses.*

- (1) Public schools or private schools for students enrolled in grades K-12, or any portion thereof.
- (2) Any use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

(f) *Site design standards.* Site design standards in the M-1 light industrial district shall be as follows:

(1) *Minimum lot size.*

- a. A lot area of not less than one-half acre is required.
- b. A lot width of not less than 75 feet abutting a public right-of-way is required.
- c. A lot depth of not less than 150 feet is required.
- d. A minimum of ten percent of the total lot area shall be reserved for landscaping use. Such landscaping shall conform in design and appearance to other sections of this chapter as approved by the planning commission.

(2) *Front, side and rear yard requirements.* Front, side and rear yard requirements shall be as follows:

- a. *Front yard.* There shall be a front yard having a depth of not less than 25 feet between buildings and the street right-of-way line devoted exclusively to landscaping except for necessary points of access.
- b. *Distance from highways or thoroughfares.* No building shall be erected closer than 30 feet to the right-of-way line of any state highway, major, or secondary thoroughfare.
- c. *Side yard.* There shall be two side yards, one on each side of any building, each of a width of not less than 20 feet, except that where the district abuts or adjoins a residence district, the side yard width shall not be less than 50 feet.
- d. *Rear yard.* There shall be a rear yard having a depth of not less than 30 feet, except that where the district abuts or adjoins a residential district, there shall be a rear yard of not less than 50 feet.
- e. *Distance from adjacent residential district.* No building shall be erected closer than 50 feet to any lot line adjacent to a residential district. The areas between buildings and streets or lot lines shall be landscaped as buffer strips planted with grass, shrubs, and trees and shall be continuously maintained by the property owner in a sightly manner. Additionally, or in the

alternative, the City may require a fence, with a finished side out, to screen the property from view from the residential district.

- (3) *Maximum ground coverage.* No more than 50 percent of a lot shall be covered by buildings.
- (4) *Zero lot line development.* Industrial lots may be platted or subdivided in such a manner that common property lines will have a zero lot line setback, provided however, that each lot meets all performance, safety and other standards required by the zoning administrator.
- (5) *Common areas.* The developer may provide open storage, parking, driveways, and loading areas in an area common to all units of the building. Common areas shall be deeded to and held in the name of an owner's association created by the developer and including all owners of property in the project. Declarations, in form and substance acceptable to the City attorney, governing the usage and maintenance of such common areas shall be adopted and filed by the developer.
- (6) *Party wall agreements.* Agreements to ensure maintenance of party walls shall be approved by the City attorney.
- (7) *Off-street parking and loading area requirements.* Establishments within an M-1 light industrial district must be designed to provide vehicle parking space for employees and visitors and space for truck loading and unloading on their own property, as no parking shall be permitted on streets within or bordering an M-1 district.
 - a. *Drainage and surface.* The surfaces of parking stalls and aisles, truck standing spaces and access driveways shall be blacktop, concrete, or other hard surface and designed and maintained for adequate drainage and free from dust, dirt, and mud. Such maintenance includes keeping the blacktop, concrete, or other hard surface in good condition and free from chuckholes and other types of surface cracks and breakage.
 - b. *Curbing.* The entire perimeter of the parking stalls and aisles, truck standing spaces and access driveways shall be curbed with a six-inch high curbing of poured or precast concrete.
 - c. *Parking.* All required parking stalls shall be located on the premises to which such requirements apply or on an off-street space distant not more than 500 feet from such premises, provided that stalls required for employees and proprietors of any premises may be located on an off-street space distant not more than 1,000 feet from such premises.

d. *Parking stalls.* For the purpose of this Chapter, each parking stall shall be not less than 300 square feet in area, including a minimum width of nine feet and a minimum depth of 20 feet and whatever area is required for satisfactory movement into and out of such stall.

e. *Prohibited off-street parking.* Off-street parking is prohibited in the following areas:

1. Any portion of required 25-foot front yard.
2. Any more than two-thirds of required rear yard.
3. Any closer to a lot line than five feet.
4. Any closer to a main building than five feet.

f. *Driveway requirements.*

1. A maximum driveway width of 32 feet at the curb opening, excluding the entrance radii may be constructed without the approval of the zoning administrator.
2. The parking aisle shall be at least 25 feet in width, unless otherwise approved by the zoning administrator.
3. The edge of the curb opening shall not be closer to the nearest portion of a street right-of-way intersection than 75 feet or two-thirds of the lot width (whichever is smaller); except that where a "T" intersection exists, a drive may be located opposite the end of the intercepted street.
4. A minimum driveway angle to the street shall be 60 degrees.
5. The driveway pavement must:
 - i. Be at least five feet from any lot line.
 - ii. Be at least five feet from the main building.
 - iii. Have a minimum driveway radii of ten feet.

g. *Truck berths.*

1. Each business, commercial, manufacturing or industrial use having deliveries made by

truck more than once a day between the hours of 8:00 a.m. and 6:00 p.m., or where the time of loading and unloading materials or goods exceeds ten minutes between those hours, shall provide off-street truck loading space on the lot, such space to be not less than 35 feet in length, 12 feet in width and 15 feet in height.

2. Loading and unloading facilities are to be located in the rear yard; or side yard if properly screened by a solid six-foot fence or other acceptable means.

3. The space needed for the loading and unloading facilities must be adequate to handle the loading and unloading needs, without obstructing right-of-way.

- h. *Parking ratio requirements.* The parking areas shall include the following ratio of parking stalls plus adequate aisles, walks and open spaces:

1. Manufacturing: One parking stall per 500 square feet of building or one stall per 1.5 employees on major shift plus one for each company vehicle, whichever is greater.

2. Office: One parking stall each per 250 square feet of floor area.

3. Warehousing: One each per 1.5 employees plus one for each company vehicle, or one per 2,000 square feet of floor area whichever is greater.

4. Other uses: For other uses, parking stall requirements shall be at least comparable to similar uses in other districts, but also subject to additional provisions as provided by the City.

5. Joint use of parking: Provisions of parking stalls jointly by several uses in the same block or in the same vicinity is permissible; in which case, the number of stalls required shall be the sum total of the individual requirements, provided that where it is found by the Planning Commission upon application thereto that the need for parking stalls required in this section is substantially less, the Planning Commission may recommend to the City Council and the Council may reduce the total number of parking stalls to be jointly provided.

6. No reduction of parking space: All required parking spaces provided on a lot or in a building shall be unobstructed and useable for the purpose and shall not be reduced.

- i. *Berming of parking lots and adjacent streets.* Berming of parking lots and adjacent to streets will be required where it is deemed appropriate by the Planning Commission.

(8) *Open storage areas.* Open storage areas are permitted in the following areas:

- a. Side yards not adjacent to or across the street from any residential district.
- b. Rear yards: Except within 50 feet of a property line adjacent to any residential district.
- c. Building setbacks: No open storage shall be permitted in building setbacks from rights-of-way.
- d. Screening: Open storage areas shall be screened by walls of buildings or a screening fence compatible with the principal building and surrounding land uses. The screening requirements shall be satisfied by the use of one of the following as required by the Planning Commission:
 1. *Screening fence.* A screening fence at least six feet in height with a minimum opaqueness of 80 percent. The fence shall be compatible with the principal building and surrounding properties. Screening fences shall be painted or stained, whenever necessary, to prevent fading, chipping or discoloration. Damaged or destroyed fences shall be repaired or restored in a reasonable period of time.
 2. *Planting screen.* A planting screen consisting of a row of alternating evergreen shrubs and deciduous trees. Only honey locust, hard maples, green ash, ginko, or other long-lived shade trees approved by the City forester shall be planted. The trees shall be a minimum of two to 2½ inches caliper and shall be spaced not more than 15 feet apart. The shrubs shall be a minimum of two to three feet in height at time of planting, with a mature height of four to six feet, and shall be spaced between the trees in such proximity as will form a screen. Planting screens shall be maintained in a neat and healthy condition. Dead materials shall be replaced in a reasonable period of time. As

an alternative, a planting screen may consist of a continuous row of evergreen trees, no less than four feet in height at time of planting and ten feet apart.

3. *Berm.* A berm no less than six feet in height with a side slope of no greater than 1½ to two. The berm shall be sodded or seeded, mulched, and maintained until sod develops. Slopes greater than 1½ to two may be used if the slopes are stepped, using retaining walls. Plant materials resistant to erosion may be substituted for sod or seed with the prior approval of the planning commission.
4. *Others.* Topography, existing vegetation, permanent buildings, or other barriers may be substituted for the provisions of this subsection, if in the determination of the Planning Commission they provide equivalent screening.
- e. Garbage receptacles or refuse areas must be located in rear or side yards, be constructed of masonry with a gate and must be screened from public view.
- f. Storage of company vehicles over 9,000 pounds gross vehicle weight is permitted only in screened areas approved by the planning commission.
- g. Business which require outside storage that are adjacent to properties, which through private covenants have prohibited all outside storage, shall not be erected closer than 50 feet to any lot line. The area between buildings storage areas and the lot line shall be landscaped and buffer strips planted with grass, shrubs, and trees and shall be continuously maintained by the property owner. Additionally, or in the alternative, the City may require a fence, with the finished side out, to screen the outside storage from view.

(9) *Landscapeing.*

- a. All open areas of any site, lot, tract, or parcel shall be graded to provide proper drainage and except for areas used for parking driveways or storage, shall be landscaped with trees, shrubs, and planted ground cover. Location, size, and species of trees and shrubs shall be indicated on the site plan and subject to the landscaping ordinance and approval by the Planning Commission.
- b. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. If any trees or shrubs die, the owners

shall replace them with a like species. Any dead or damaged sod also shall be replaced.

- c. All vacant lots, tracts, or parcels shall be properly maintained in an orderly manner, free of litter and junk.
- d. All landscaped areas and sodded areas which abut a public street shall include an underground sprinkling system.

(g) *Performance standards.* It is the intent of this subsection to provide that industry and related activities in the M-1 light industrial district shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of emission of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity, etc.

- (1) *Noise.* Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled, so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity.
- (2) *Odor.* No activity or operation shall cause at any time the discharge of odorous matter in such concentrations as to be readily detectable at any point along the property boundary line or in such concentration as to create a public nuisance or hazard beyond such boundary line. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.
- (3) *Glare.* Glare, whether direct or reflected, such as from floodlights or high temperature process, and as differentiated from general illumination, shall not be visible at any property line.
- (4) *Exterior lighting.* Any lights used for exterior illumination shall direct light away from adjoining properties.
- (5) *Smoke, dust, fumes, or gases.* every operation shall conform to state pollution control standards.
- (6) *Storage of materials.* Open storage of materials in any required front, side or rear yard shall be prohibited. Any other outside storage shall be located or screened, so as not to be visible from any of the classes of residence districts.
- (7) *Hazard.* Every operation shall be carried on with reasonable precautions against fire and explosion hazards.
- (8) *Water supply.* The design and construction of water supply facilities and water supply source shall be in accord with city health standards and requirements.
- (9) *Waste.* All sanitary sewage and industrial wastes shall be treated and disposed of in such manner as to comply with health standards and requirements of the City and the State Department of Health and the State Water Pollution Control Commission.

- (h) *Architectural control and appearance.* Architectural control and appearance in the M-1 light industrial district shall be regulated as follows:
- (1) All buildings erected shall conform to the State building code.
 - (2) Building specifications must contain sufficient data to indicate elevations, all materials, textures, colors, and finishes for all foundations, exterior walls and roofs of buildings and for all storage fencing and walls.
 - (3) The Planning Commission and City Council will review the overall appearance of the proposed buildings in terms of the structure's relationship and impact on adjacent land uses and development. The building should conform with the existing design and character of the industrial park, and any adjacent businesses. The standards for architectural treatment will be higher for sides of buildings facing a street or a residential area.
 - (4) All exterior wall finishes on any building shall be one or a combination of the following:
 - a. Face brick.
 - b. Natural stone.
 - c. Decorative block, if used with brick, stone, or glass.
 - d. Specially designed precast concrete units, if the surfaces have been integrally treated with an applied decorative material or texture.
 - e. Factory fabricated or pre-engineered steel and finished metal framed panel construction, if the panel materials are any of those named above, glass, prefinished (other than galvanized iron), or a plastic, and if there is a color retention guarantee of a minimum of 20 years, and if 42-inch full perimeter frost footings are included. If any metal materials are utilized, there must not be any exposed fasteners used and guardrails or posts, curbs, or buffer strips must be installed to prevent impact to the building.
 - (5) The building design should exhibit architectural uniqueness in building lines, shades, and angles to enhance energy conversation and when practical use active or passive solar design.
 - (6) All buildings shall be constructed so as to screen all electrical and mechanical equipment on the roof or to secure such equipment mounted at ground level by appropriate screening.
 - (7) Every exterior wall, foundation and roof of any building or structure shall be reasonably watertight, weather tight and rodent proof and shall be kept in a workmanlike state of maintenance and repair. Exterior walls shall be maintained and kept free from dilapidation by cracks, tears or breaks or from deteriorated plaster, stucco, brick, wood or other material that is extensive and suggests neglect. The protective surface

on exterior walls of a building above ground level shall be maintained in good repair so as to provide a sufficient covering and protection of the structural surface underneath against its deterioration. Without limiting the generality of this section, a protective surface of a building shall be deemed to be out of repair if (i) more than 25 percent of the area of any plane or wall on which the protective surface is paint is blistered, cracked, flaked, scaled or chalked away, or (ii) more than 25 percent of the pointing of any brick or stone wall is loose or has fallen out.

- (i) *Plat and plan approval.* Plat and plan approval of property in the M-1 light industrial district shall be as follows:
 - (1) A site plan and security agreement shall be required pursuant to section 74-37.
 - (2) A complete set of building plans and specifications certified by a registered architect and engineer, sewage disposal and water supply plans must accompany the site plan.
 - (3) No development shall be allowed until the Planning Commission has reviewed and made a recommendation and the City Council has approved the deed restrictions for such a district and evidence of filing such restrictions is given to the City Council.

Section 74-257.

M-2 General Industrial District.

- (a) Purpose of district. The M-2 General Industrial District is established to provide industrial uses that are more intensive than uses permitted in other industrial districts based on performance, site requirements, and site use. Uses in the district are permitted based on the geography of Anoka being a fully developed community with limited area and smaller parcels which may limit industrial uses that require larger areas to operate. Additionally, the M-2 General Industrial District, when located near residential or commercial zoning districts or other land uses, will require additional performance standards and limitations of use to ensure compatibility with such districts and land uses.
- (b) Permitted uses. The following are permitted uses in the M-2 General Industrial District:
 - (1) Dry cleaning, laundry and drying establishments
 - (2) Government maintenance facility
 - (3) Laboratories for medical science research
 - (4) Laboratories for physical science research
 - (5) Manufacturing of:
 - Flour and other grain mill products
 - Fats and Oils
 - Cereal breakfast foods
 - Sugar
 - Confectionary
 - Frozen and canned food
 - Dried and dehydrated food and pasta
 - Dairy products
 - Bakery products
 - Flour, cookie, and cracker mixes

Tortillas
Coffee and tea
Soft drinks and bottled water
Ice
Malt beverage, wine, distilled and blended liquors
Tobacco
Yarn, thread, broad woven, narrow and nonwoven fabrics
Schiffli machine embroideries
Textile finishing, household textile products
Coated Fabrics
Carpets and rugs
Canvas and related products
Rope, cordage, and twine
Hosiery, socks, hats, caps, neckware and other clothing/apparel
Footwear
Luggage and Leather goods
Sawmills and cut stock, resawing
Wood preservation
Hardwood and softwood veneer and plywood
Engineered wood member, truss and prefab wood buildings
Wood container and pallet
Paperbox and container
Plastics, foil, and paper packaging
Coated and laminated paper and foil
Paper office supply
Sanitary paper product
Commercial printing
Manifold business forms and checkbooks
Book printing, binding, post press and service industries for the printing trade
Inorganic, organic and synthetic fabric, dye and pigment
Plastics material resin and synthetic rubber
Drugs and Medicinal Chemical Manufacturing
Paint and Coating
Adhesives
Soaps, detergents, polishes and related products
Toilet preparation
Printing Ink
Custom compounding of purchased resin
Photographic film, paper and plate
Unlaminated plastics film and sheet (except packaging)
Plastic bottles and plastic profile shapes
Plastic Pipe and Fittings
Laminated plastics plate, sheet, and shapes
Plastic foam products
Plastic plumbing fixtures
Tire manufacturing
Rubber and Plastic hoses and belting
Rubber products
Vitreous china, fine earthenware and porcelain
Brick and other structural clay products except refractories
Flat, pressed, blown and fabricated glass
Abrasive products
Cut stone and stone products
Aluminum Sheet, Plate, Foil and extruded products
Copper rolling, drawing and extruding

Copper wire drawing
Forging
Custom roll forming
Crown and closures
Powder Metallurgy Parts
Cutlery, flatware, kitchen utensil, pot and pans
Hand and edge tools, hardware
Saw blade and handsaw
Metal window and doors
Sheet metal
Ornamental and architectural metal work
Metal can and containers
Spring (heavy and light gauge)
Machine shops
Precision turned product
Bolt, nut, screw, rivet, and washers
Metal coating, engraving and allied activities
Industrial valves
Fluid power valve and hose fitting
Plumbing fixture fitting
Ball and roller bearing
Fabricated pipe and pipe fitting
Enameled Iron and Metal Sanitary Ware
Fabricated Structural Metal
Farm, turf, lawn and garden machinery
Construction and mining equipment
Woodworking machinery
Textile machinery
Printing trades machinery and equipment
Food products machinery
Vending machines
Commercial laundry equipment
Optical instrument and lens
Photographic Equipment
Blowers, exhaust and ventilation fans
Heating equipment
Refrigeration, air conditioning and warm air equipment
Machine tool accessories
Metalworking machinery
Turbines
Mechanical power transmission
Pumps and compressors
Conveying and elevating equipment and industrial trucks
Hoists, cranes and monorails
Power-drive hand tools
Welding apparatus
Packaging machinery and equipment
Industrial furnaces and ovens
Fluid power equipment
Scales and balances
Special dies, tools, jigs, fixtures
Cutting tool and Machine tool accessories
Computing and office machines
Communications equipment
Radio receivers and television sets
Electronic components

- Electric Enclosures
 - Musical Instruments
 - Clocks, watches and watchcases
 - Discs and recording devices
 - Household appliances, cabinets, countertops, mattresses, furniture
 - Motors, generators
 - Switchgear, switchboard
 - Storage batteries, primary batteries
 - Fiber optic cable, wire and other communication cable
 - Carbon and Graphite products
 - Motor vehicles, boats, trains, airplanes and parts associated with Aerospace industries
 - Blinds and shades
 - Medical and dental equipment
 - Jewelry
 - Hollowware and Flatware
 - Sporting and Athletic goods
 - Toys, games, dolls, and children's vehicles
 - Pens, pencils, marking devices
 - Signs and displays
 - Burial caskets
 - Brooms, brushes, and mops
 - Buttons, needles, pins, fasteners
 - (6) Offices
 - (7) Public utilities and services
 - (8) Retail sales and showrooms when done in association with a permitted or conditionally permitted use
 - (9) Warehousing or distribution centers
 - (10) The manufacture of ammunition and all processes related to the manufacture of ammunition, the development of the materials and components used in the manufacture of ammunition and the storage of the materials and components used in the manufacture of ammunition.
 - (11) Brewery, Micro.
 - (12) Brewery, National.
 - (13) Brewery, Regional.
 - (14) Manufacturing of wine, distilled and blended liquors.
- (c) Conditional Uses. The following uses may be allowed only upon the City's issuance of a Conditional Use Permit:
- (1) Automotive repair
 - (2) Concrete product manufacturing
 - (3) Daycare
 - (4) Electroplating, coating, engraving and allied activities
 - (5) Metal heat treating
 - (6) Prefabricated metal building and component manufacturing
 - (7) Resilient floor covering manufacturing
 - (8) Power boilers, heat exchangers, and heavy gauge metal tank manufacturing
 - (9) Mixed municipal recycling facility
 - (10) Tire retreading facility
 - (11) Compost facility
 - (12) Any junkyard that is entirely within an enclosed building(s) and do not require any open storage
 - (13) Other manufacturing, process, storage or commercial uses as determined by the Planning Commission to be of the same general

character as the permitted uses and found not to be obnoxious, unhealthy, or offensive by reason of the potential emission or transmission of noise, oxidation, smoke, dust, odors, and/or toxic or noxious matters.

- (14) Any permitted use located directly adjacent to a residential zoning district.

(d) Prohibited Uses.

- (1) Alkalies and chlorine manufacturing
- (2) Alumina refining
- (3) Animal slaughtering
- (4) Animal food manufacturing
- (5) Asphalt and tar roofing, siding, and paving products
- (6) Carbon black manufacturing
- (7) Cement, lime, and gypsum products manufacturing
- (8) Cyclic crude and intermediate manufacturing
- (9) Demolition debris land disposal facility
- (10) Energy recovery facility
- (11) Ethyl alcohol manufacturing
- (12) Feedlots
- (13) Fertilizer, pesticides and other agricultural chemicals facility
- (14) Fish and other seafood processing
- (15) Foundries
- (16) Ground or treated mineral and earth manufacturing
- (17) Industrial gas manufacturing
- (18) Industrial solid waste land disposal facility
- (19) Iron, steel mill, and electrometallurgical products manufacturing
- (20) Landfills
- (21) Junkyards not meeting the requirements under 74-2579 (c)(13)
- (22) Leather tanning facility
- (23) Metal Recycling Facility
- (24) Mixed municipal solid waste land disposal facility
- (25) Paper and paperboard mills
- (26) Petrochemical manufacturing
- (27) Poultry processing
- (28) Pulp mills
- (29) Ready-mix concrete manufacturing
- (30) Rendering and meat by-product processing
- (31) Rolling, drawing and extruding of nonferrous metals
- (32) Public or private schools
- (33) Single or multiple family residential
- (34) Slaughtering of animals
- (35) Smelting
- (36) Solid waste land disposal facility
- (37) Solid waste management facility
- (38) Transfer station
- (39) Any use not specifically listed as permitted, conditionally permitted, or as allowed elsewhere in the City Code, shall be considered prohibited. Any prohibited use may be changed to permitted or conditionally permitted upon an amendment to this Chapter.

(e) *Accessory Uses.* The following are considered accessory uses:

- (1) Taprooms.

- (f) *Site design Standards.* Site design standards in the M-2 general industrial district shall be as follows:
- (1) *Height regulations.* No building or structure shall hereafter be erected or structurally altered to exceed a height of 50 feet. Greater heights may be allowed upon issuance of a conditional use permit. Accessory structures used exclusively for the storage of materials processed, used, or manufactured on site shall be exempt from height regulations.
- (2) Front, side and rear yard requirements: Front, side and rear yard requirements shall be as follows:
- a. *Front yard regulations.* In the M-2 general industrial district, there shall be a front yard of not less than 20 feet; except, that on every lot in the M-2 general industrial district that is located across the street from any of the classes of residential districts, there shall be a front yard of not less than 25 feet.
- b. *Side yard regulations.* In the M-2 general industrial district, there shall be a side yard of not less than 10 feet, -except, that when the property abuts or adjoins any of the classes of residential districts, there shall be a side yard of a width of not less than 20 feet. When the property abuts or adjoins a railroad no side yard is required.
- c. *Rear yard regulations.* In the M-2 general industrial district there shall be a rear yard of not less than 20 feet except, that when the property abuts or adjoins any of the classes of residential districts, there shall be a rear yard of a depth equal to, but not less than, twice the depth of a rear yard required in the abutting district. When the property abuts or adjoins a railroad no rear yard is required.
- (3) *Impervious surface and Riparian Lots.*
- a. Maximum ground coverage. No more than 50 percent of a lot shall be covered by buildings. No more than 85% of a lot shall be covered by impervious surface.
- b. No more than 30 percent of the total lot area of a riparian lot shall be covered with an impervious surface unless adequate measures are taken to control the rate and enhance the quality of runoff as determined by the City Engineer.
- c. *Distance of impervious parking surface from the Rum River.* No impervious surface for the purpose of driveways or parking areas may be closer than 50 feet from the ordinary high water level of the river and must be screened by natural material.
- d. *Distance from high water level of the Rum River.* No building may be closer than 100 feet from the ordinary high water level of the river and may not exceed 35 feet in height.
- (4) *Off street parking and loading areas.* Establishments within an M-2 general industrial district must be designed to provide vehicle parking

space for employees and visitors and space for truck loading and unloading on their own property.

- a. *Drainage and surface.* The surfaces of parking stalls and aisles, truck standing spaces and access driveways shall be bituminous, concrete, or similar surface not including Class V gravel and designed and maintained for adequate drainage and free from dust, dirt, and mud.
- b. *Curbing.* If the parking lot is bordered by a right of way that contains drainage gutter and storm sewer, the perimeter of parking lots, truck standing places and access driveways shall be curbed with poured or precast concrete.
- c. Prohibited off-street parking. Off-street parking is prohibited in the following areas:
 1. Within any required front yard when directly across from a residential zoning district.
 2. Within five feet of any property line.
- d. Nonconforming parking and loading areas. Nonconforming parking, driving, and loading areas shall be allowed to continue, but shall comply with Section 74-257(e)(4)(a and b) upon the need for a site plan approval by the City Council and/or issuance or amendment of a conditional or interim use permit.

(5) Parking ratio requirements. The parking areas shall include the following ratio of parking stalls plus adequate aisles and walks.

- a. Manufacturing: One parking stall per 500 square feet of building or one stall per 1.5 employees on major shift plus one for each company vehicle, whichever is greater.
- b. Office: One parking stall per 250 square feet of floor area.
- c. Warehousing: One per 1.5 employees plus one for each company vehicle, or one per 2,000 square feet of floor area, which is greater.
- d. Other uses: Other uses shall be subject to other off-street parking requirements in the City Code.

(6) Open Storage areas.

- a. Open storage is permitted in side or rear yards except within 25 feet of a property line adjacent to a residential district.
- b. All open storage shall be screened from any classes of residential or commercial district, or from any public right-of-way that has a grade difference of less than 12 feet. Storage shall be screened by buildings or the use of one or a combination of the following:

1. Screening fence. A screening fence at least six feet in height with a minimum opaqueness of 80 percent. The fence shall be compatible with the principal building and surrounding properties. Screening fences shall be gate style, painted or stained whenever necessary, to prevent fading, chipping or discoloration. Damaged or destroyed fences shall be repaired or restored in a reasonable period of time as determined by the Planning Department.
 2. Planting screen. A planting screen consisting of a row of evergreen shrubs or deciduous trees, as recommended by the City Forester. Only honey locust, hard maples, green ash, ginko, or other long-lived shade trees approved by the City Forester shall be planted. The trees shall be a minimum of two (2) to two and one-half (2-1/2) inches caliper and shall be spaced not more than 15 feet apart. The shrubs shall be a minimum of two (2) to three (3) feet in height at time of planting, with a mature height of four (4) to six (6) feet, and shall be spaced between the trees in such proximity as will form a screen. Planting screens shall be maintained in a neat and healthy condition. Dead materials shall be replaced in a reasonable period of time as determined by the Planning Department. As an alternative, a planting screen may consist of a continuous row of evergreen trees, no less than four (4) feet in height at time of planting and ten (10) feet apart.
 3. Berm. A berm no less six feet in height with a side slope of no greater than 1 ½ to two. The berm shall be sodded or seeded and maintained until sod develops. Slopes greater than 1 ½ to two may be used if the slopes are stepped, using retaining walls.
 4. Others. Topography, existing vegetation, permanent buildings or other barriers may be substituted for the provisions of this subsection, if in the determination of the Planning Commission, provide adequate screening.
- c. The parking, keeping, storage or accumulation of junk motor vehicles upon any private land or premises owned, occupied or controlled by any person or legal entity unless authorized by this code or other ordinance shall be prohibited. For purposes of this section, a junk vehicle means any motor vehicle as defined in Minn. Stats 169.01, subd. 3, part of a motor vehicle, or former motor vehicle stored which is (1) unusable or inoperable because of a lack of or defects in component parts; (2) damage from collision, deterioration, or otherwise; (3) beyond repair, and, therefore, not intended for future use as a motor vehicle; (4) being retained on the property for possible use of salvageable parts; or (5) is not properly and currently licensed for operation.

- d. Hazardous chemicals and materials as defined by Minnesota State Statutes are prohibited from being stored outside.
- e. Open storage shall not affect the required amount of parking stalls needed on a site.
- f. Open storage may not be stacked higher than 12 feet unless it is fully screened from any property line.
- g. All waste material, garbage or refuse shall be kept in an enclosed container and screened from any public right-of-way.
- h. For the purposes of this section, the storage of trailers associated with the use shall not be considered open storage provided the trailers are licensed, operable, and are used for the transportation of materials associated with the business and not storage of materials.

(7) Landscaping.

- a. All yards not occupied by parking, permitted open storage, or loading space, shall either be landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining residential districts which are otherwise not screened shall be landscaped with buffer planting screens.
- b. It shall be the owner's responsibility to see that landscaping is maintained in an attractive and well-kept condition. Any dead vegetation shall be required to be replaced upon notice from the Planning Department.
- c. All vacant lots, tracts, or parcels shall be properly maintained in an orderly manner, free of litter and junk.

(g) *Performance standards.* It is the intent of this subsection to provide that industry and related activities in the M-2 general industrial district shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of emission of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation radioactivity, etc. Performance standards in the M-2 general industrial district shall be as follows:

- (1) *Noise.* Any noise emitted must meet requirements set forth in the City Code pertaining to noise as a public nuisance.
- (2) *Odor.* Every operation shall conform to Minnesota Pollution Control Agency standards. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.
- (3) *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.

- (4) *Exterior lighting.* Any lights used for exterior illumination shall direct light away from adjoining properties. Lighting shall not exceed 0.1 foot candle at residential property lines and 0.5 foot candle at nonresidential property lines measured on a vertical plane.
 - (5) *Vibration.* No person or device shall cause any unreasonable or annoying vibration which constitutes a public nuisance as defined at Art. II Section 38-30 of this Code.
 - (6) *Smoke, dust, fumes or gases.* Every operation shall conform to Minnesota Pollution Control Agency standards.
 - (7) *Hazard.* Every operation shall be carried on with reasonable precautions against fire and explosion hazards. Reasonable shall mean if the operation is in compliance with local, county, state and federal regulations.
 - (8) *Water supply.* The design and construction of water supply facilities and water supply source shall be in accord with City health regulations and requirements.
 - (9) *Wastes.* All sewage and industrial wastes shall be treated and disposed of in such manner as to comply with City health regulations and requirements.
- (h) *Architectural control and appearance.* Architectural control and appearance in the M-2 general industrial district shall be regulated as follows:
- (1) All buildings erected shall conform to the State building code.
 - (2) Building specifications must contain sufficient data to indicate elevations, all materials, textures, colors, and finishes for all foundations, exterior walls and roofs of buildings and for all storage fencing and walls.
 - (3) Any exterior wall finishes of new principal buildings and exterior sides of accessory buildings that can be viewed from a public street shall be required to be one or a combination of the following:
 - a. Face brick.
 - b. Natural stone.
 - c. Decorative concrete block, if used with brick, stone, or glass.
 - d. Specially designed precast concrete units, if the surfaces have been integrally treated with an applied decorative material or texture not including raked texture.
 - e. Architectural metal accent panels, generally with a value greater than precast concrete units.
 - f. *Alternative Designs or Materials.* To encourage creativity, imagination, innovation, and variety in architectural design, the Planning Commission may recommend modifications of the requirements of this Section and the City Council may

approve such modifications upon determining that the proposed architectural design or exterior wall material(s) meets all of the following conditions:

1. The proposed design or material is consistent with the purposes of this section.
2. The proposed design or material would enhance the architectural appearance of the building, and would be equal or superior to designs or materials permitted by this section.
3. The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding district.

- (4) The following exterior wall materials shall be prohibited:
 - a. Factory fabricated or pre-engineered steel and finished metal framed panel construction.
- (5) Any pre-existing structures or buildings that lawfully exist on the effective date of this ordinance may be expanded using similar material(s) of the existing building provided all other requirements of the city code are met.

Section 74-258.

M-3 Light Industrial/Commercial Overlay District

- (a) *Purpose of district.* The purpose of this section is to establish an overlay district to address the unique characteristics of properties adjacent to Bunker Lake Boulevard, west of St. Francis Boulevard. The M-3 Light Industrial/Commercial Overlay District is established to provide exemplary standards of development for certain industrial and commercial uses as well as multiple family residential uses in this district. These uses shall maintain high standards of appearance, including open spaces and landscaping; limit external effects such as noise, odors, smoke and vibration; and not require a high level of public services. With proper control, these areas should become compatible with surrounding commercial or residential areas. The City has determined that future growth within the overlay district must be responsibly managed under a planned framework of development parameters. A crucial element of planned development management involves the maintenance of acceptable levels of traffic operation on regional and local road systems. In order to maintain the functional capacity of area road systems, consideration was made for large vehicle traffic generation and types of land use to facilitate compatibility between these uses and neighboring residential developments. The light industrial/commercial overlay district attempts to create a reasonable balance between the interests of the property owner in development of the property, and at the same time protect the interest of the surrounding properties and the City.
- (b) *Intent.* Bunker Lake Boulevard has unique traffic management needs, development pressures, and aesthetic characteristics that require the establishment of additional development standards to meet the City's goals and fulfill the purpose of this Ordinance. The intent of the M-3 Light Industrial/Commercial Overlay District is to require development along the corridor that maintains the visual environment of the City, protects the general welfare, responsive to development pressures, and proportional to the area's

traffic management issues. The overlay district regulations are intended to supplement the regulations of the underlying M-1 Light Industrial zoning district and to provide for compatibility of development along the identified corridor.

- (c) *Applicability.* In the event other City ordinances or State Statutes address the same topics covered in this Section, the more restrictive language shall apply.
- (d) *Establishment of District Boundaries.* Boundaries for the M-3 Light Industrial/Commercial Overlay District areas are shown on the Official Zoning Map. The district shall include the following properties:

Address	PID Number
500 Bunker Lake Blvd. NW	36-32-25-21-0009
650 Bunker Lake Blvd.	36-32-25-21-0214
652 Bunker Lake Blvd.	36-32-25-21-0008
700 Bunker Lake Blvd.	36-32-25-22-0070
730 Bunker Lake Blvd.	36-32-25-22-0001
	36-32-25-22-0006
740 Bunker Lake Blvd.	36-32-25-22-0004
800 Bunker Lake Blvd.	36-32-25-22-0002
1140 Bunker Lake Blvd.	35-32-25-12-0010
3821 Tower Pond Dr.	36-32-25-24-0022
Vacant Lot	35-32-25-12-0013
Vacant Lot	35-32-25-11-0021

- (e) *Permitted uses.* The following are permitted uses in the M-3 Light Industrial/Commercial Overlay District:
- (1) Art equipment supplier – manufacturers.
 - (2) Bags, boxes and paper containers, manufacturing and storage.
 - (3) Baker products.
 - (4) Books, loose-leaf binders – fabrication and assembly.
 - (5) Cabinet and woodworking establishments.
 - (7) Books and Bookbinding.
 - (8) Camera and photographic manufacturing.
 - (9) Cold Storage Plants- refrigeration and warehouse.
 - (10) Commercial printing, publishing, engraving and reproduction firms.
 - (11) Confectionary and related products, manufacture and packaging.
 - (12) Dental Instruments and supplies.
 - (13) Electric lighting and wiring equipment – manufacture.
 - (14) Electric measuring and testing equipment – manufacture.
 - (15) Electric tubes and other components – manufacture.

- (16) Electrical products and appliances – manufacture and assembly.
- (17) Fabricated metal products – warehousing and administration.
- (18) Food and kindred products – warehousing and administration only.
- (19) Footwear – manufacture and fabrication.
- (20) Furniture and fixtures – warehousing and administration only.
- (21) Hand and edge tools (except machine tools) – manufacturing and assembly.
- (22) Hardware warehousing and distribution operations.
- (23) Ice plants and ice cream plants.
- (24) Jewelry manufacture.
- (25) Laboratory instruments and associated equipment, scientific and testing.
- (26) Luggage, handbags, similar items – manufacture and assembly.
- (27) Mail order business.
- (28) Medical and surgical instruments and supplies – manufacture and assembly.
- (29) Machine tool – manufacture.
- (30) Newspaper plants and offices.
- (31) Optical instruments and lenses – manufacture and assembly.
- (32) Paper and allied products – warehousing and administration.
- (33) Patterns – design and manufacture.
- (34) Pottery – wholesale and making pottery.
- (35) Precision instruments.
- (36) Plumbing fixture and equipment – wholesale.
- (37) Radio and television – assembly and parts fabrication.
- (38) Sport equipment – manufacture and assembly.
- (39) Scientific and research instruments and equipment – manufacture and assembly.
- (40) Signs and advertising display materials.
- (41) Stone, Clay and glass products – warehousing and administration.

- (42) Telephone and telegraph technical apparatus – manufacture and assembly.
 - (43) Temperature controls – fabrication and assembly.
 - (44) Textile products – warehousing and administration only.
 - (45) Welding supply.
 - (46) Wholesale business facilities.
 - (47) Contractor and construction supply shops, conducted wholly within an enclosed building, including but not limited to plumbing, HVAC, drywall, roofing and electrical.
 - (48) Medical and dental clinics.
 - (48) Offices such as administrative, executive, professional, governmental, medical, and research.
 - (49) Employment agencies.
 - (50) Dance and music studios, martial arts, judo, boxing, gymnastics.
 - (51) Wellness centers, fitness and health clubs, gyms.
 - (52) Mortuaries, funeral homes.
 - (53) Craft and artisan shops such as model making, rug weaving, wood products, and similar activities.
 - (54) Artist, author, composer, sculptor.
 - (55) Music and art teachers or other tutoring services.
 - (56) Professional art or photo gallery.
 - (57) Professional portrait studio and film shop.
 - (58) Catering.
 - (59) Paint, wallpaper stores, interior decorating studio.
- (f) *Conditional Uses.* The following uses may be allowed only upon the City's issuance of a Conditional Use Permit:
- (1) Multiple family residential dwellings.
 - (2) Mini-storage facilities.
 - (3) Daycare facility.
 - (4) Retail and service establishments providing goods and services that are complimentary to the principal uses in the district and qualify as an accessory use under this Section.

- (5) Other manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods or products or other commercial uses, not identified as, but similar to those permitted uses as determined by the City and shall be of the same general character as the permitted uses above with similar traffic volume generation and found not to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, oxidation, smoke, dust, odors, toxic or noxious matters or glare or heat.

(g) *Accessory Uses.* The following are considered accessory uses:

- (1) Uses customary with and incidental to the principal use are permitted, but shall not exceed thirty (30) percent of the gross floor area of the principal use.
- (2) Signs, off-street parking and loading areas as regulated by this chapter.

(h) *Prohibited Uses.*

- (1) Public schools or private schools for students enrolled in grades K-12, or any portion thereof, trade schools, vocational schools, colleges, universities, institutions of higher learning.
- (2) Yards for storage, sale and distribution of building materials or landscaping products and materials.
- (3) Motor vehicle repair businesses.
- (4) Gas, service stations or convenience stores.
- (5) Hospital.
- (6) New or used car sales.
- (7) Residential facilities whose purpose is to treat juveniles who have violated criminal statutes related to sex offenses or who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be a permitted use.
- (8) Any use not specifically listed as permitted, conditionally permitted, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

(i) *Site design standards.* Site design standards in the M-3 Light Industrial/Commercial Overlay District shall be consistent with the requirements set forth in the M-1 Light Industrial standards, with the following additional regulations:

- (1) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed three stories or 40 feet in height.
- (2) *Lot area requirements.* Every dwelling hereafter erected, enlarged, relocated, altered or reconstructed shall be located upon lots containing the following areas:

- a. Multiple dwelling: The minimum lot area shall be not less than 12,000 square feet for the first two dwelling units plus 2,000 square feet for each additional dwelling unit and shall not be less than 75 feet wide at the building setback line nor less than 130 feet in depth.
- (3) *Density standards for residential uses.* The density for residential uses shall be no less than 4 units nor more than 10 units per acre.
- (4) *Floor Area Requirements.* Residential floor area requirements required in Chapter 74, Article V, Division 2, Section 74-211 (b) shall apply to this Section.
- (5) *Impervious surface.* The impervious surface coverage for multiple dwellings shall not be more than 50%. Impervious surface coverage for other uses shall be consistent with requirements set forth in the M-1 Light Industrial standards.
- (6) *Off-street parking and loading requirements.* Off-street parking and loading shall be consistent with the standards in the M-1 Light Industrial District. The parking ratios for manufacturing, office and warehousing uses in M-1 district shall apply. For other uses allowed in the M-3 Light Industrial/Commercial Overlay District, parking stall requirements shall be at least comparable to similar uses in other districts, but also subject to additional provisions as provided by the City and consistent with Chapter 74, Article IX, Division 2 Off-Street Parking and Loading.
 - a. No more than six company vehicles (vans, semis, etc.) may be parked overnight on any one property, provided sufficient off-street parking is available to accommodate said vehicles. Such vehicles must be used primarily for business related purposes of a business located on the same property. Vehicles defined as being a midsize vehicle or larger are permitted only in screened areas approved by the City as required by this Section.
- (7) *Outdoor storage areas.*
 - a. With the exception of loading and unloading of commodities, and parking and storage of vehicles and trailers, all business activities shall be within an enclosed building.
 - b. Outdoor storage of products or merchandise offered at wholesale, material stored for salvage or disposal, or items used in the operation of the business is prohibited.
 - c. Inoperative vehicles or equipment, or other items typically stored in a junkyard or salvage yard, shall not be stored outside on the property and shall be considered public nuisances affecting peace and safety, pursuant to Section 38-32 of the City Code.
- (8) *Screening*

- a. Stored vehicles and outdoor storage areas shall be screened by walls of buildings or a screening fence compatible with the principal building and surrounding land uses. The screening requirements shall be satisfied by the use of one of the following as recommended by the Planning Commission and approved by the City Council:
 - i. *Screening fence.* A screening fence at least six feet in height with a minimum opaqueness of 80 percent. The fence shall be compatible with the principal building and surrounding properties. Screening fences shall be painted or stained, whenever necessary, to prevent fading, chipping or discoloration. Damaged or destroyed fences shall be repaired or restored in a reasonable period of time.
 - ii. *Planting screen.* A planting screen consisting of a row of alternating evergreen shrubs and deciduous trees. Only honey locust, hard maples, green ash, ginko, or other long-lived shade trees approved by the City forester shall be planted. The trees shall be a minimum of two to 2½ inches caliper and shall be spaced not more than 15 feet apart. The shrubs shall be a minimum of two to three feet in height at time of planting, with a mature height of four to six feet, and shall be spaced between the trees in such proximity as will form a screen. Planting screens shall be maintained in a neat and healthy condition. Dead materials shall be replaced in a reasonable period of time. As an alternative, a planting screen may consist of a continuous row of evergreen trees, no less than four feet in height at time of planting and ten feet apart.
 - iii. *Berm.* A berm no less than six feet in height with a side slope of no greater than 1½ to two. The berm shall be sodded or seeded, mulched, and maintained until sod develops. Slopes greater than 1½ to two may be used if the slopes are stepped, using retaining walls. Plant materials resistant to erosion may be substituted for sod or seed with the prior approval of the Planning Commission and City Council.
 - iv. *Others.* Topography, existing vegetation, permanent buildings, or other barriers may be substituted for the provisions of this subsection, if in the determination of the Planning Commission and City Council they provide equivalent screening.
- b. Garbage receptacles or refuse areas must be located in rear or side yards, be constructed of masonry with a gate and must be screened from public view.

(9) *Landscape.*

- a. All open areas of any site, lot, tract, or parcel shall be graded to provide proper drainage and, except for areas used for parking, driveways, or storage, shall be landscaped with trees, shrubs, and planted ground cover. Location, size, and species of trees and shrubs shall be indicated on the site plan and subject to the landscaping ordinance and approval by the Planning Commission and City Council.
 - b. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. If any trees or shrubs die, the owner shall replace them with a like species. Any dead or damaged sod also shall be replaced.
 - c. All vacant lots, tracts, or parcels shall be properly maintained in an orderly manner, free of litter and junk.
 - d. All landscaped areas and sodded areas which abut a public street shall include an underground sprinkling system.
- (j) *Performance standards.* It is the intent of this subsection to provide that industry and related activities in the M-3 Light Industrial/Commercial Overlay District shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of emission of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity, etc.
- (1) *Noise.* Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled, so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity.
 - (2) *Odor.* No activity or operation shall cause at any time the discharge of odorous matter in such concentrations as to be readily detectable at any point along the property boundary line or in such concentration as to create a public nuisance or hazard beyond such boundary line. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.
 - (3) *Glare.* Glare, whether direct or reflected, such as from floodlights or high temperature process, and as differentiated from general illumination, shall not be visible at any property line.
 - (4) *Exterior lighting.* Any lights used for exterior illumination shall direct light away from adjoining properties.
 - (5) *Smoke, dust, fumes, or gases.* Every operation shall conform to state pollution control standards.
 - (6) *Hazard.* Every operation shall be carried on with reasonable precautions against fire and explosion hazards.
 - (7) *Water supply.* The design and construction of water supply facilities and water supply source shall be in accord with city health standards and requirements.

(8) *Waste.* All sanitary sewage and industrial wastes shall be treated and disposed of in such manner as to comply with health standards and requirements of the City and the State Department of Health and the State Water Pollution Control Commission.

(k) *General regulations.*

(1) All commercial use outdoor activities such as loading and unloading shall be located a minimum of 100 feet from any parcel that is zoned residential and used or subdivided for residential, or has an occupied institutional building, including but not limited to schools, religious institutions and community centers.

(2) Where uses are located on sites which abut residential zoning districts or residential uses, all outdoor activities including trucking are limited to normal hours of operation except for those specifically excluded. Normal hours of operation are defined as being between the hours of 7:00am and 10:00pm Monday through Saturday inclusive, and includes all outdoor activities, loading and unloading, truck maneuvering and movement of equipment and other materials. It does not include administrative or office functions, or maintenance, manufacturing, or cleanup work conducted entirely within a structure. Operations may be conducted between the hours of 10:00 p.m. and 7:00 a.m., subject to the following conditions:

- a. The person conducting operations outside of normal business hours shall apply for a temporary permit for hours of operation between 10:00 p.m. and 7:00 a.m. The application for such permit shall specify the name and address of the applicant, the location of the temporary operation, the nature of the activity, the anticipated duration of such activity and the name and telephone number of the responsible person available on the premises while temporary operations are being conducted.
- b. A temporary permit may be granted for a period not to exceed 15 days. A person receiving a temporary permit may apply for extensions, provided that the number of days in which temporary permits are granted shall not exceed 90 days in any calendar year.
- c. A permit may be denied to any applicant who has had two violations of a temporary permit and/or has violated any other provision of this Chapter within a period of one year preceding the date of application.
- d. A permit issued pursuant to this section shall be revoked upon a violation of this chapter or the terms of the permit by the permit holder or any person or entity acting on behalf of, or at the request of, the permit holder.
- e. No permit shall be issued for the time from 10:00 p.m. Saturday to 7:00 a.m. Monday.
- f. When a permit is issued for a period of time exceeding five days, the City shall send notice to owners of residential property abutting the property for which a permit is granted,

informing them of the terms of the permit. The holder of the temporary permit shall reimburse the City for the cost of such notice.

- g. Employee parking during temporary operations shall be located on the site as far as possible from any parcel that is zoned residential and used or subdivided for residential use, or has an occupied institutional building, including but not limited to schools, religious institutions, and community centers.
- (3) Uses shall not generate significant traffic on local residential streets. Where possible, truck activity routes shall be accessed from a roadway identified in the Comprehensive Plan as a collector or arterial road.
- (I) *Architectural control and appearance.* The architectural control and appearance standards in the M-1 district shall apply to non-residential buildings and structures in the M-3 Light Industrial/Commercial Overlay District with the exception as stated in subsection (I) (5) of this section. The architectural control and appearance for multiple family residential uses shall be as follows:
 - (1) *Multiple family residential.* Architectural control and appearance shall be regulated as follows:
 - a. Facades.
 - 1. Visual Breaks. The exterior of new buildings shall be designed with visual breaks through the use of decorative tile work, masonry (but not flat concrete block), belt courses of a different texture and color, projecting cornices, medallions, opaque or translucent glass, artwork, vertical articulation, lighting fixtures, or architectural elements not listed herein as approved by the City Council.
 - 2. Width. A building more than 45 feet in width shall be divided into increments of no more than 45 feet through articulation of the façade. This can be achieved through combination of the following techniques:
 - aa. Division of breaks in materials
 - bb. Window bays
 - cc. Special treatment at entrances
 - dd. Subtle variations in rooflines and parapet detailing
 - ee. Building setbacks
 - ff. Awnings
 - gg. Repetitive elements
 - b. Exterior Materials and Detailing.
 - 1. New buildings and structures, additions, and renovations must be constructed of durable materials.

2. In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following:
 - aa. An intermediate cornice line
 - bb. A difference in building materials or detailing
 - cc. An offset in the façade
 - dd. An awning, loggia, or arcade
 - ee. Special window lintels
 - ff. Brick/stone corbels
3. The exterior opaque materials on each respective elevation of a multiple family residential building must be brick, stone, decorative masonry or similar materials or a combination thereof. Public Façade: 50%; Side Façade: 33%; Interior Façade: 25%. The brick, stone, or decorative masonry shall be focused on prominent architectural features, particularly the office components of the building, elevations that include primary building entrance or multiple tenant entrances, corners of buildings, and the prominent building elevations fronting on public streets.
4. The remaining percentage of the building exterior opaque materials shall be comprised of the following materials:
 - aa. Cast stone
 - bb. Wood shingles (cedar shingles with 6-inch maximum exposure)
 - cc. Lap siding, cedar or redwood (6 inch width, no diagonal siding)
 - dd. Tongue and groove paneling, cedar or redwood (6 inch width, no diagonal siding)
 - ee. Copper (untreated)
 - ff. Stucco and EFIS
 - gg. Cement board
 - hh. Glass (does not include windows)
 - ii. Dark anodized aluminum
 - jj. Materials that are similar in character to those listed above and approved by the City.
5. The following materials are not allowed as exterior materials:
 - aa. Painted or unpainted concrete block
 - bb. Aluminum, vinyl or fiberglass siding or roofing materials.
 - cc. Precast concrete materials, unless specifically approved by the City Council for a new commercial building.
 - dd. Painting of previously unpainted brick
 - ee. Wooden exteriors

6. LEED (Leadership in Energy and Environmental Design) Standards. The City encourages the use of sustainable building materials and construction techniques through programs such as US Green Building Council's LEED program.
 7. Alternative Designs or Materials. To encourage creativity, imagination, innovation and variety in architectural design, the Planning Commission may recommend modifications of the requirements of this Section and the City Council may approve such modifications upon determining that the proposed architectural design or exterior facade(s) materials meet all of the following conditions:
 - aa. The proposed design or material is consistent with the purposes of this section.
 - bb. The proposed design or material would enhance the architectural appearance of the building and would be equal or superior to designs or materials permitted by this section.
 - cc. The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding district.
 - c. Accessory building. The City Council may require common walls for accessory buildings where common walls will eliminate unsightly and hazardous areas. Exteriors of accessory buildings shall have the same exterior finish as the main structure or some other compatible finish approved during site plan review.
- (2) All buildings erected shall conform to the State building code.
 - (3) Building specifications must contain sufficient data to indicate elevations, all materials, textures, colors, and finishes for all foundations, exterior walls and roofs of buildings and for all storage fencing and walls.
 - (4) The Planning Commission and City Council will review the overall appearance of the proposed buildings in terms of the structure's relationship and impact on adjacent land uses and development. The building should conform with the existing design and character of the industrial park, and any adjacent businesses. The standards for architectural treatment will be higher for sides of buildings facing a street or a residential area.
 - (5) A building that has an exterior wall finish of factory fabricated or pre-engineered steel and finished metal framed panel construction may have exposed metal fasteners on walls that are adjacent to a minimum six foot berm and six foot fence, on a wall facing the interior of the site, or adjacent to a tree line or landscaping with six foot evergreen trees

ten feet on center, limiting the visibility of the public. All other exterior walls must not have exposed fasteners.

(m) *Exterior lighting.*

- (1) Exterior lighting shall be used to provide illumination for the security and safety of entry drives, parking, service and loading areas, and pathways, without intruding on adjacent properties, and shall comply with the following standards:
 - (a) Poles and fixtures shall be architecturally compatible with structures and lighting on-site and on adjacent properties.
 - (b) Metal halide lighting shall be used with a concealed light source of the “cut-off” variety to prevent glare and “light trespass” onto adjacent buildings and sites.
 - (c) Poles in parking lots shall have a maximum height of 24 feet, measured from finished grade.
 - (d) “Wall paks” shall be down-lit and shielded from view.
 - (e) Security lighting shall be adequate for visibility, but not overly bright.
 - (f) City Code Section 74-519 shall also apply as applicable.

(2) *Lighting intensity.*

- a. A photometric lighting plan is required to ensure adequate and appropriate light levels are provided for each site condition.
- b. Lighting shall not exceed 0.1 foot candle at residential property lines or 0.5 foot candle on non-residential property lines measured on a vertical plane.

(n) *Plat and plan approval.* Plat and plan approval of property in the M-3 Light Industrial/Commercial Overlay District shall be as follows:

- (1) A site plan and security agreement shall be required pursuant to section 74-38.
- (2) No development shall be allowed until the Planning Commission has reviewed and made a recommendation and the City Council has approved the development.
- (3) In cases where there is uncertainty or disagreement about compliance with the standards in this Section, the Planning Director or designee may refer development approvals to the Planning Commission and City Council to determine whether the proposal meets the standards of this Section.

(o) *Enforceability.*

- (1) *Violation.* Unless expressly provided otherwise, it shall be a misdemeanor for any person or entity to violate any provision of the

City Code, including this Section, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Section. This term "misdemeanor" is defined in Minnesota Statutes Section 609.02, subd. 3, as amended. In addition to prosecuting a violation as a misdemeanor, the City may separately, or in conjunction with the misdemeanor prosecution, bring a civil action to enforce any provisions of the City Code, including this Section, or any rule or regulation adopted in pursuance of such provision.

Section 74-259--74-264.

Reserved.

CHAPTER 74. ZONING

ARTICLE V. District Regulations.

DIVISION 5. Mixed Use Districts.

Section 74-265. Main Street Mixed Use District. (MS).

- (a) *Purpose and Intent of District.* The purpose of the standards for the Main Street Mixed Use District (MS) is to promote harmonious development, redevelopment and rehabilitation of structures along Main Street. It is intended that the standards will:
- (1) Maintain the visual environment of the City, protect the general welfare, and ensure that the City's property values, buildings, designs, appearance, character, and economic well-being are preserved and respected through minimum design and appearance standards;
 - (2) Encourage creativity, imagination, innovation, and variety in architectural design and building composition through design principles that promote harmony in the physical relationships between structures in the City and are reflective of the river city heritage;
 - (3) Preserve the unique river city heritage, history, and architectural character of existing buildings as these buildings are renovated and re-used and as improvements are made;
 - (4) Reinforce and support a healthy development pattern in which new buildings and building modifications maintain the City's unique character through complementary and appropriate use of building materials, massing and architectural details;
 - (5) Encourage a diversity of uses and activities that promote pedestrian activity;
 - (6) Reinforce the unique character of existing Main Street facade/streetscape sightlines;
 - (7) Promote the use of quality construction;
 - (8) Enhance the visual and aesthetic appeal of Main Street;
 - (9) Protect private investors who commit to redevelopment along the Main Street corridor; and
 - (10) Inhibit criminal activity and provide a pleasant, rich and diverse experience for pedestrians through minimum façade transparency requirements.
- (b) *Definitions.* For purposes of this Section, the following words and phrases shall have the meanings ascribed to them by this section or Section 74- 2 of the City Code. Words not defined shall have the plain meaning generally ascribed to them.

Arcade is defined as a frontage wherein the façade is above a colonnade that overlaps the sidewalk to one side of the sidewalk.

Articulation is defined as architectural composition in which elements and parts of the building are expressed logically, distinctly, and consistently, with clear joints.

Awning is defined as a roof-like covering place over a door or window to provide shelter from the elements. An awning usually consists of a metal frame covered with fabric.

Bollard is defined as a short vertical post, often used to control traffic.

Character is defined as those attributes, qualities, and features that make up and distinguish a neighborhood, street, or an individual development project and give such place or project a sense of purpose, function, definition, and uniqueness.

Colonnade is defined as a series of columns set at regular intervals and usually supporting the base of a roof structure.

Convenience store is any retail establishment offering for sale a relatively limited selection of prepackaged food products, household items, and other related goods, not necessarily including gasoline or fuel sales, and characterized by a rapid turnover of customers and high traffic generation.

Corbel is defined as a bracket of stone, wood, brick, or other building material, projecting from the face of a wall and generally used to support a cornice or arch.

Cornice is defined as any projecting ornamental molding along the top of a building or wall.

Exterior Insulation Finish System (EIFS) is a type of building product that provides exterior walls with a finished surface, insulation and waterproofing in an integrated composite system. EIFS is also known as "synthetic stucco" and "Dryvit" - a popular EIFS brand.

Facade is defined as the face or front of a building.

Foot candle is defined as the amount of light from one candle at one foot from the source of light.

Lintel is defined as a horizontal structural member, such as a beam or stone that spans an opening, as between the uprights of a door or window or between two columns or piers.

Live-work dwelling is defined as dwelling units used for both dwelling purposes and any nonresidential use permitted in that zoning district.

LEED -The Leadership in Energy and Environmental Design. The LEED Green Building Rating System™ is the nationally accepted benchmark for the design, construction, and operation of high performance green buildings.

Loggia is defined as a space within the body of a building but open to the air on one side, serving as an open-air room or as an entrance porch.

Monolithic street facade defined as a street façade that is imposing in size or bulk or is characterized by massiveness and total uniformity.

New car sales shall have the meaning as defined in Minn. Stat. § 168.27, as amended.

Photometric is defined as the measurement of the properties of light, especially luminous intensity.

Pitched roof is defined as any of the following:

Gable roof -- a roof with a central ridge line and vertical wall ends.

Gambrel roof -- a roof with a double pitch terminating in a small gable at the ridge.

Hip roof -- a roof with sloped instead of vertical ends.

Mansard roof is a roof having a double slope, the lower pitch being longer and steeper than the upper.

Plaza is defined as an area used for public purposes, such as outdoor seating, outdoor gathering areas or landscaped courtyard but cannot be used for outdoor sales or storage or for a parking space or drive lane.

School is defined as a public or private school having a course of instruction approved by the Minnesota Board of Education for students enrolled in grades K-12, or any portion thereof.

Signs

Freestanding sign is a sign that is supported by one or more uprights, poles or braces in or upon the ground.

Monument or ground sign is a sign not supported by exposed posts or poles that is architecturally designed and located directly at grade, and where the base width dimension is fifty percent (50%) or more of the greatest width of the sign.

Pylon sign is a sign supported by a column-type structure that is firmly set in or below ground surface and finished in a material consistent with the sign.

Sandwich board sign is a sign not supported in the ground, nor attached to or erected against a permanent structure and is capable of being moved.

State licensed residential facility or housing with services establishment is defined as a residential facility registered under Minnesota Statutes Chapter 144 D.

State licensed day care facilities is defined as a day care facility licensed by the State of Minnesota.

Group family day care facilities are day care facilities licensed under Minnesota Rules 9502.0315 to 9502.0445.

Used car sales shall have the meaning as defined in Minn. Stat. § 168.27, as amended.

Vehicle.

1. The definitions in Minn. Stat. § 168.011, as amended, are hereby adopted by reference.
2. Midsize vehicle means any motorized vehicle or trailer more than twenty-two (22) feet and up to twenty-five (25) feet in length, or more than 12,000 pounds and up to 15,000 pounds gross vehicle weight.
3. Oversized vehicle means any motorized vehicle or trailer more than twenty-five (25) feet in length or more than 15,000 pounds gross vehicle weight.
4. Stored vehicle means a parked vehicle that has remained in the same location for seven (7) consecutive days or more. Any vehicle moved less than 300 feet shall be deemed to have remained in the same location.

Wall pak is defined as a wall mounted light fixture, often used for outdoor security lighting and small general area lighting.

- (c) District and Sub-District Boundaries. The Main Street Mixed Use District (MS) shall include the Main Street Corridor from TH 10 to the eastern boundary of the City as shown on the official zoning map. The Main Street Mixed Use District (MS) shall be further divided into the following sub-districts:
- (1) West Main Street (WM) – from TH 10 to the Main Street Rum River Bridge.
 - (2) East Main Street Sub-District 1 (EM-1) – Historic Downtown Core – from immediately east of the Main Street Rum River Bridge to 5th Avenue.
 - (3) East Main Street Sub-District 2 (EM-2) – East of 5th Avenue to and including all properties that abut the intersection of 7th Avenue and Main Street.
 - (4) East Main Street Sub-District 3 (EM-3) – East of the East Main Street Sub-District 2 (EM-2) boundary as shown on the official zoning map.
- (d) Application of Standards. The Main Street Mixed Use District (MS) standards apply to the following within the Main Street Mixed Use District (MS):
- (1) All newly constructed buildings, structures or additions.
 - a. New additions may use exterior materials that are similar to the existing structure materials.
 - (2) All exterior improvements or renovations.
 - (3) Changes in exterior color to any building within East Main Street Sub-District 1 and 2 (EM-1 and EM-2).

- (4) Sign changes that require a building and/or sign permit.
 - (5) All new or reconstructed parking areas with five (5) or more spaces.
 - (6) Temporary signage.
- (e) Exemptions. The following are exempt from this Section:
- (1) Projects involving only work, maintenance or repairs to the interior of a building or structure.
 - (2) Projects involving only ordinary maintenance or the replacement of similar or identical materials of an existing building.
- (f) Pre-existing structures. Any building, structure, parking area or sign that lawfully exists on the effective date of this Ordinance, which is otherwise not permitted under this Ordinance, may be continued in the same manner as existed before the effective date of this Ordinance. Buildings that are destroyed by an act of nature may be reconstructed with similar materials as existed prior to being destroyed. All redevelopment of properties shall be subject to the requirements of this Section.
- (g) Compliance. No conditional use permit, interim use permit, site plan approval, building permit, or sign permit shall be issued until the requirements of this Section have been met. It is the applicant's responsibility to provide the necessary information to City staff to determine compliance with this Section.
- (h) Permitted, Conditional, Interim, Accessory and Prohibited Uses.
- (1) West Main Street Sub-District (WM).
- a. Permitted Uses. The following uses are permitted uses in the West Main Street Sub-District (WM):
 - 1. Any permitted uses in the East Main Street Sub-District 1 (EM-1)
 - 2. Mortuaries, funeral homes and chapels
 - 3. Health, athletic or fitness clubs
 - 4. Veterinary clinics
 - 5. Pawn shops
 - 6. Tattoo parlors
 - 7. Group family daycare facilities serving fourteen (14) or fewer children
 - 8. Taxi, mini-bus service and facilities
 - b. Conditional Uses. The following uses are permitted in the West Main Street Sub-District (WM) upon obtaining a conditional use permit

1. New car sales or leasing, subject to the general standards for conditional uses and the following standards:
 - aa. A plan for the display of vehicles along with the required traffic circulation and parking plan, designating all vehicle storage and display areas with painted striping on a paved surface, providing widths of twelve feet (12') for one-way traffic and eighteen feet (18') for two-way traffic, and which will permit any displayed or stored vehicle to be moved off the premises without moving any other vehicle.
 - bb. Adequate employee parking, a minimum of three (3) customer parking spaces, plus one (1) additional space per 25 displayed or stored vehicles. All customer parking stalls shall be adequately signed. All parking areas shall be paved.
 - cc. Any lot used for the sale of vehicles shall have a total area of no less than one (1) acre.
 - dd. Operation of the business shall conform to the approved site plan.
 - ee. All vehicles parked or stored on-site shall be properly licensed. Open storage of automobile parts or storage of junk vehicles shall be prohibited. Vehicles shall be stored within an approved enclosed (fenced) storage area.
 - ff. The site shall have positive drainage.
 - gg. All site plans for newly-established car lots shall include a permanent building on footings, with restroom facilities, and connection with sewer and water, all in conformance with the building code, of a minimum size of four hundred (400) square feet. The exterior building walls shall consist of one or a combination of either face brick or "rock face" or "split face" concrete block.
2. Renting of vehicles, subject to the general standards for conditional use permits and the following:
 - aa. A plan for the display of vehicles along with the required traffic circulation and parking plan, designating all vehicle storage and display areas with painted striping on a paved surface, providing widths of twelve feet (12') for one-way traffic and eighteen feet (18') for two-way traffic, and which will permit any displayed or stored vehicle to be moved off premises without moving any other vehicles.
 - bb. The sale of vehicles shall be prohibited.

- cc. Any lot used for the renting of vehicles shall have a total area of no less than one-half acre.
- 3. Automobile service stations, gasoline and oil stations, subject to the general standards for conditional use permits and the following:
 - aa. Temporary outside display of merchandise at service and gasoline stations is allowed as an accessory use. Such display shall be maintained in a neat and orderly fashion appurtenant to a permanent structure and shall not exceed 150 square feet or 5% of the gross building floor area, whichever is less.
 - bb. Pumps, pump islands, and canopies may be located in the front yard, except where located directly across from a residential zoning district, and provided they are not less than fifteen feet (15') from the property line.
 - cc. Temporary promotional signs affixed to freestanding signs, pumps, pump islands, canopies, or any structure other than the main structure shall be prohibited.
- 4. Automobile repair, subject to the general standards for conditional uses and the following:
 - aa. All vehicles waiting for repair or pick-up shall be stored on the site within an enclosed building or in parking spaces in compliance with off-street parking regulations.
 - bb. All repairs shall be performed within a completely enclosed building.
 - cc. All vehicles parked or stored on-site shall display a current license plate with a current license tab. Outside storage of automotive parts or storage of junk vehicles shall be prohibited except within an approved enclosed storage area.
 - dd. The sales of vehicles shall be prohibited.
 - ee. The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet (10') above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.
- 5. Drive-up window or teller service as accessory to permitted use
- 6. State licensed residential facilities serving from 7 through 16 persons

7. State licensed day care facilities serving from 13 through 16 persons
 8. Group family daycare on non-residential properties
 9. Any other uses found to be of the same general character as any of the West Main permitted uses
 10. Churches, religious institutions
 11. Public or private schools, provided they do not include boarding or residential facilities
 12. Libraries
 13. Trade schools
 14. Vocational Schools
 15. Colleges, Universities, Institutions of Higher Learning
- c. Interim Uses. The following uses are permitted in the West Main Street Sub-District (WM) upon obtaining an interim use permit:
1. Rental of vehicles if accessory to a use other than new or used car sales
 2. Outside storage of more than three (3) mid-sized vehicles to allow overnight parking
- d. Accessory Uses. The following accessory uses are permitted in the West Main Street Sub-District (WM):
1. Used car sales as an accessory use to new car sales
 2. Renting or leasing vehicles as an accessory use to new car sales
 3. Transit facilities
 4. Information kiosks
- e. Prohibited Uses. The following uses are prohibited in the West Main Street Sub-District (WM):
1. Residential facilities whose purpose is to treat juveniles who have violated criminal statutes related to sex offenses or who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses
 2. Amusement arcades
 3. Distribution buildings or beverages
 4. Yards for storage, sale and distribution of building materials

5. Multi-screen movie theatres with more than five screens
6. Hospitals
7. Manufacturing/warehousing facilities
8. Any use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

(2) East Main Street Sub-District 1 (EM-1) – Historic Downtown Core.

- a. Permitted Uses. The following uses are permitted in the East Main Street Sub-District 1 (EM-1):
 1. Retail stores
 2. Retail services such as eyeglass fitting, quick printing, tailor shops, etc.
 3. Dine in restaurants
 4. Fast-food restaurants without drive-through
 5. Convenience stores
 6. Offices, such as administrative, executive, professional, governmental, medical, research, without merchandising services
 7. Medical and dental clinics
 8. Hotels/motels
 9. Bakeries
 10. Dry-cleaning pick-up
 11. Live theatre
 12. Multi-family residential buildings
 13. Live/work dwellings
 14. Assisted living facilities
 15. Essential facilities and services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems, rights-of-way for transportation modes, and telephone switching lines
 16. Police and fire stations
 17. Banks, savings and loan, insurance offices

18. Personal service and repair establishments such as barber, beauty shops, shoe repair, etc.
19. Hardware and craftsman shops
20. Grocery stores
21. Parking ramps or lots
22. Coffee shops
23. Brew pubs
24. Liquor stores
25. Attorneys
26. Professional portrait studios and film shops
27. Specialty food markets
28. Employment agencies
29. Dance and music studios, martial arts, judo, boxing
30. Laundromats
31. Clubs, lodges
32. Wellness centers
33. Parks
34. Microbrewery with taproom, subject to the following standards:
 - aa. The establishment must include a taproom that is open a minimum of 2 days or 8 hours per week.
 - bb. The malt liquor sold for consumption at the business must be produced by the brewer on the licensed premises.
 - cc. The malt liquor may be sold to other bars, restaurants or wholesalers for distribution on a limited scale according to Federal and State regulations.
 - dd. The bottling process shall be manual or semi-automated, not fully automated.
 - ee. The establishment shall obtain all applicable Federal, State, and City licenses.
 - ff. A microbrewery located at street level shall provide at least 50% of the total floor space at the front one-half of the building to be used for sales, tasting, or restaurant purposes.
35. Microdistillery with tasting room/cocktail room, subject to the following standards:

- aa. The establishment must include a tasting room/cocktail room that is open a minimum of 2 days or 8 hours per week.
 - bb. The distilled spirits sold for consumption at the business must be produced by the brewer on the licensed premises.
 - cc. The distilled spirits may be sold to other bars, restaurants or wholesalers for distribution on a limited scale according to Federal and State regulations.
 - dd. The bottling process shall be manual or semi-automated, not fully automated.
 - ee. The establishment shall obtain all applicable Federal, State, and City licenses.
 - ff. A microdistillery located at street level shall provide at least 50% of the total floor space at the front one-half of the building to be used for sales, tasting, or restaurant purposes.
- b. Conditional Uses. The following uses are permitted in the East Main Street Sub-District 1 (EM-1) upon obtaining a conditional use permit:
- 1. Fast food restaurants with drive though
 - 2. Drive-up windows or teller service as accessory use to permitted use
 - 3. Churches, religious institutions
 - 4. Libraries
 - 5. Public or private schools provided they do not include boarding or residential facilities
 - 6. Trade schools
 - 7. Vocational schools
 - 8. Colleges, Universities, Institutions of Higher Learning
 - 9. A State licensed residential facility serving from seven (7) through sixteen (16) persons as allowed under Minnesota Statutes 462.357 Subd. 8, as amended.
 - 10. A State licensed daycare facility serving from thirteen (13) through sixteen (16) persons allowed under Minnesota Statutes 462.357 Subd. 8, as amended.
 - 11. Any other uses found to be of the same general character of the East Main 1 permitted uses
- c. Accessory Uses. The following are permitted accessory uses in the East Main Street Sub-District 1 (EM-1) sub-district:

1. Transit facilities
2. Information kiosks
3. Farmer's markets
- d. Prohibited Uses. The following uses are prohibited in the East Main Street Sub-District 1 (EM-1):
 1. Amusement arcades
 2. Distribution station for beverages
 3. Manufacturing/warehousing facilities
 4. Yards for storage, sale and distribution of building materials
 5. Multi-screen movie theatres with more than five screens
 6. Hospitals
 7. Gas or service stations
 8. Tobacco Shops.
 9. Any Commercial Use Selling Drug Paraphernalia.
 10. Medical or Recreational Marijuana Dispensaries.
 11. Tattoo shops.
 12. Body Piercing Shops.
 13. Pawn Shops.
 14. Electronic Cigarette/Vaporizer Shops.
 15. Any uses not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

(3) East Main Street Sub-District 2 (EM-2)

- a. Permitted Uses. The following uses are permitted in the East Main Street Sub-District 2 (EM-2):
 1. All permitted uses listed in the East Main Street Sub-District 1 (EM-1)
 2. Medical or dental laboratories
 3. Mortuaries, funeral homes and chapels

- b. Conditional Uses. The following uses are permitted in the East Main Street Sub-District 2 (EM-2) upon obtaining a conditional use permit:
 - 1. All conditional uses listed in the East Main Street Sub-District 1 (EM-1).
 - 2. Group family daycare on non-residential properties
 - 3. Any other use found to be of the same general character of the East Main Street Sub-District 2 permitted uses
- c. Interim Uses. The following uses are permitted in the East Main Street Sub-District 2 (EM-2) upon obtaining an interim use permit:
 - 1. Overnight parking of more than three (3) mid-sized vehicles
- d. Accessory Uses. The following accessory uses are permitted in the East Main Street Sub-District 2 (EM-2):
 - 1. Transit facilities
 - 2. Information kiosks
- e. Prohibited Uses. The following uses are prohibited in the East Main Street Sub-District 2 (EM-2):
 - 1. Residential facilities whose purpose is to treat juveniles who have violated criminal statutes related to sex offenses or who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use under subsection (1) above.
 - 2. Amusement arcades
 - 3. Distribution buildings for beverages
 - 4. Manufacturing facilities
 - 5. Motor vehicle repair businesses
 - 6. Gas or service stations
 - 7. Yards for storage, sale and distribution of building materials
 - 8. Multi-screen movie theatres with more than five screens
 - 9. Hospitals
 - 10. Any use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter.

- (4) East Main Street Sub-District 3 (EM-3).
- a. Permitted Uses. The following uses are permitted in the East Main Street Sub-District 3 (EM-3):
1. Medical and dental clinics.
 2. Live/work dwellings.
 3. Mortuaries, funeral homes.
 4. Offices: administrative, executive, professional, governmental, medical, research, without merchandising services.
 5. Personal service and repair establishments such as barber and beauty shops, shoe repair, etc.
 6. Professional portrait studio and film shop.
 7. Retail services such as eyeglass fitting, quick printing, tailor shops, photo pick-up stations, etc.
 8. Single family residential dwellings.
 9. Multiple family residential dwellings.
 10. Libraries.
 11. Professional art or photo gallery.
 12. Parks.
 13. Essential facilities and services, including electrical, gas, water, sewer distribution and collection lines, pumping facilities for water and sewer systems, rights-of-way for transportation modes, and telephone switching lines.
 14. Assisted living facilities.
 15. Craft and artisan shops such as model making, rug weaving, woodworking, and similar activities.
 16. Mail order business.
 17. Antique shops
 18. Artist, author, composer, sculptor.
 19. Music and art teachers or other tutoring services.
 20. Coffee shops.
 21. Ice Cream Parlor.
 22. Sign making.

23. Bed and breakfast facilities.
24. Book Store.
25. Specialty Bakery.
26. Flower Shop.
27. Catering.
28. Wellness Center.
29. Boutiques, dress, and designer clothing shops.
30. Candy store.
31. Gift shop.
32. Kitchen supply store.
33. Cheese store.
34. Specialty cigar shop.
35. A State licensed residential facility or a housing with services establishment registered under Minnesota State Statutes Chapter 144 D, serving six (6) or fewer persons under Minnesota Statutes 462.357 Subd. 7, as amended.
36. A State licensed day care facility serving twelve or fewer persons as allowed under Minnesota Statutes 462.357 Subd. 7, as amended.
- b. Conditional Uses. The following uses are permitted in the East Main Street Sub-District 3 (EM-3) upon obtaining a conditional use permit:
 1. A state licensed residential facility serving from seven (7) through sixteen (16) persons as allowed under Minnesota Statutes 462.357 Subd. 8, as amended
 2. A State licensed daycare facility serving from thirteen (13) through sixteen (16) persons allowed under Minnesota Statutes 462.357 Subd. 8, as amended.
 3. Any other use found to be of the same general character of the East Main Street Sub-District 3 permitted uses.
- c. Prohibited Uses. The following uses are prohibited in the East Main Street Sub-District 3 (EM-3):
 1. Residential facilities whose purpose is to treat juveniles who have violated criminal statutes related to sex offenses or who have been adjudicated delinquent on the basis of conduct in

violation of criminal statutes relating to sex offenses shall not be considered a permitted use under subsection (1) above.

2. Amusement arcades
3. Distribution buildings for beverages
4. Manufacturing facilities
5. Motor vehicle repair businesses
6. Gas or service stations
7. Yards for storage, sale and distribution of building materials
8. Multi-screen movie theatres
9. Hospitals
10. New or used car sales
11. Any use not specifically listed as permitted, conditionally permitted, permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited. A prohibited use may be changed to a permitted, conditionally permitted or interim use upon amendment of this Chapter

(i) Bulk and Dimensional Standards.

- (1) The following tables establish bulk and dimensional standards for the Main Street Mixed-Use District:

West Main Street Sub-District (WM)

	Minimum	Maximum
Building height	----	40 feet
Building coverage	----	50%
Impervious surface	----	85%
Residential Setbacks		
Front	30 feet	45 feet
Side	15 feet	----
Rear	20 feet	----
Commercial/Mixed Use		
Front	10 feet	25 feet
Side	10 feet	----
Rear	20 feet	----
Parking setback and Landscape area		
Front	10 feet	----
Side	5 feet	----
Rear	5 feet	----

East Main Street Sub-Districts 1 and 2 (EM-1 and EM-2)

	Minimum	Maximum
EM - 1		
Commercial and Mixed Use Structures		
Front	0 feet	15 feet
Side	0 feet	15 feet
Rear	---	---
EM - 2		
Impervious Surface	----	75%
Multiple Family Residential Setbacks		
Front	15 feet	35 feet
North Side of Main Street	28 feet	48 feet
Side	0 feet	----
Rear	0 feet	----
Commercial/Mixed Use		
Front	15 feet	35 feet *
North Side of Main Street	28 feet	48 feet
Side	0 feet	----
Rear	0 feet	----

* The front yard setback abutting Main Street may be used as a plaza but no parking or drive lanes are allowed between a building and Main Street.

East Main Sub-District 3 (EM-3).

	Minimum	Maximum
Building height	----	40 feet
Building coverage	----	40%
Impervious surface	----	85%
Single Family Residential		35%
Residential Setbacks		
Multiple Family:		
Front	15 feet	35 feet
Side	10 feet	----
Rear	20 feet	----
Single Family:		
Front	25 feet	----
Side	10 feet	----
Rear	25 feet	----
Commercial/Mixed Use		
Front	15 feet	35 feet

Side	10 feet	----
Rear	20 feet	----

Parking setback and
Landscape area

Front	15 feet	----
Side	5 feet	----
Rear	5 feet	----

- (2) Density standards. Multiple family residential developments in the Main Street Mixed Use District (MS) shall be consistent with the density standards set forth in the R-4 High Density Residential standards. Density bonuses may be granted, in the sole discretion of the City Council, for developments that are consistent with this Section of the Ordinance.
- (3) Floor Area Ratios. Residential floor area ratios required in Chapter 74, Article V, Division 2, Section 74-211(b) shall apply to this Section.
- (4) Lot Area Requirements. Any single family residential lot in the Main Street Mixed Use District (MS) shall be consistent with the lot area requirements set forth in the R-4 High Density Residential standards.
- (5) Garages and Accessory Buildings. Any garage or accessory building located in the EM-3 sub-district shall be consistent with the garage and accessory building dimensional standards set forth in the R-4 High Density Residential district.

(j) Architectural Standards

(1) Facades.

- a. Visual breaks. The exterior of new buildings shall be designed with visual breaks through the use of decorative tile work, masonry (but not flat concrete block), belt courses of a different texture and color, projecting cornices, medallions, opaque or translucent glass, artwork, vertical articulation, lighting fixtures, or architectural elements not listed above as approved by the City Council.

- b. Width. A building more than 45 feet in width will be divided into increments of no more than 45 feet through articulation of the facade. This can be achieved through combinations of the following techniques:

1. Division or breaks in materials
2. Window bays
3. Special treatment at entrances
4. Subtle variation in rooflines and parapet detailing
5. Building setbacks
6. Awnings
7. Repetitive increments

- c. Color Schemes. In the East Main Street Sub-District 1 (EM-1) sub-district, all exterior finish colors shall be consistent with the

acceptable color palettes then currently on file with the city department charged with such oversight.

- (2) Materials and Detailing.
- a. New buildings and structures, additions and renovations must be constructed of durable materials.
 - b. Where the original façade has been removed and replaced with an unsympathetic alteration, the reinstatement of earlier styles in keeping with the character of the building is encouraged.
 - c. In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following:
 1. An intermediate cornice line
 2. A difference in building materials or detailing
 3. An offset in the facade
 4. An awning, trellis, loggia or arcade
 5. Special window lintels
 6. Brick/stone corbels
 - d. In the East Main Street Sub-Districts 1 and 2 and West Main Street Sub-district (EM-1, EM-2 and WM), the primary exterior opaque materials on each elevation of a building, except for the service side, must be brick, stone, decorative masonry or similar materials or a combination thereof.
 - e. In the East Main Street Sub-Districts 1 and 2, and West Main Street Sub-district (EM-1, EM-2 and WM), no more than twenty-five percent (25%) of the building exterior opaque materials on each elevation, except for the service side of the building, shall be comprised of the following accent materials:
 1. Cast stone
 2. Wood shingles (cedar shingles 6 inch maximum exposure) for trim
 3. Lap siding, cedar or redwood (6 inch maximum width)
 4. Tongue and groove paneling cedar or redwood (6 inch width, no diagonal siding)
 5. Copper (untreated)
 6. Stucco and EFIS is not permitted in the underlying Historic Downtown Core District in East Main Street Sub-District 1 (EM-1).
 7. Cement board
 8. Glass (does not include windows)
 9. Dark anodized aluminum
 10. Materials that are similar in character to those listed above.
 - f. In the East Main Street Sub-District 3 (EM-3) the primary exterior opaque materials on each elevation of a building, except for the service side, must be brick, stone, decorative masonry, lap siding (cedar or redwood), aluminum, vinyl or fiberglass siding, or similar materials or a combination thereof.

- g. In the East Main Street Sub-District 3 no more than twenty-five percent (25%) of the building exterior opaque materials on each elevation, except for the service side of the building, shall be comprised of the following accent materials:
 - 1. Cast stone
 - 2. Wood shingles (cedar shingles 6 inch maximum exposure) for trim
 - 3. Tongue and groove paneling (cedar or redwood 6 inch width, no diagonal siding),
 - 4. Copper (untreated)
 - 5. Stucco
 - 6. Cement board
 - 7. Glass (does not include windows)
 - 8. Dark anodized aluminum
 - 9. Materials that are similar in character to those listed above.
- h. The following materials are not allowed as exterior opaque materials on new buildings in the East Main Street Sub-Districts 1 and 2, and West Main Street Sub-district:
 - 1. Painted or unpainted concrete block
 - 2. Aluminum, vinyl or fiberglass siding or roofing materials
 - 3. Precast concrete panels
 - 4. Painting of previously unpainted brick
 - 5. Wooden exteriors
- i. The following materials are not allowed as exterior opaque materials on new buildings in the East Main Street Sub District -3:
 - 1. Painted or unpainted concrete block
 - 2. Painting of previously unpainted brick
 - 3. Precast concrete panels
- j. For buildings in the downtown Historic Core as defined in Chapter 20, Heritage Preservation Regulations, exterior building material regulations set forth in said Chapter shall apply to this section.
- k. LEED (Leadership in Energy and Environmental Design) Standards. The City encourages the use of sustainable building materials and construction techniques in Main Street projects through programs such as the US Green Building's Council's LEED program.
- l. Alternative Designs or Materials. To encourage creativity, imagination, innovation, and variety in architectural design, the Planning Commission may recommend modifications of the requirements of this Section and the City Council may approve such modifications upon determining that the proposed

architectural design or exterior facade material(s) meets all of the following conditions:

1. The proposed design or material is consistent with the purposes of this section.
2. The proposed design or material would enhance the architectural appearance of the building, and would be equal or superior to designs or materials permitted by this section.
3. The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding district.
- m. The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.

- (3) Franchise or National Chain Architecture.
 - a. Franchises or national chains with standardized architecture and signage shall comply with the standards contained in this Section. Aggressive and bright signage must be altered and scaled down to meet the intentions of these standards.
- (4) Exterior Lighting.
 - a. Exterior lighting shall be used to provide illumination for the security and safety of entry drives, parking, service and loading areas, pathways, courtyards and plazas, without intruding on nonadjacent properties and shall comply with the following standards:
 1. Poles and fixtures shall be architecturally compatible with structures and lighting on-site and on adjacent properties.
 2. Security lighting shall be adequate for visibility, but not overly bright.
 3. Metal halide lighting shall be used with a concealed light source of the "cut-off" variety to prevent glare and "light trespass" onto adjacent buildings and sites.
 4. Poles within landscaped areas and plazas shall have a maximum height of twenty feet (20'), measured from grade, and shall be coordinated with city standards.
 5. Poles in parking lots shall have a maximum height of 24 feet (24') measured from finished grade.
 6. Lighting fixtures mounted directly on structures shall be permitted when utilized to enhance specific architectural elements or to help establish scale or provide visual interest.
 7. "Wall paks" shall be permitted only in loading and service areas and shall be down-lit and shielded from view.

8. Shielded illumination or fixtures shall be permitted to light building mounted signage, building facades, or pedestrian arcades if they are integrated into a building's architectural design.
 9. Lighting should highlight entrances, art, terraces, and special landscape features.
 10. Separate pedestrian scale lighting or other low level fixtures, such as bollards, shall be incorporated for all pedestrian ways through parking lots and drop-off areas at entrances to buildings.
 11. All primary walkways, steps or ramps along pedestrian routes shall be illuminated.
- b. Light intensity.
1. A photometric lighting plan is required for all proposed commercial developments to ensure that adequate and appropriate light levels are provided for each site condition.
 2. Lighting shall not exceed 0.1 foot candle at residential property lines or 0.5 foot candle on non-residential property lines measured on a vertical plane.
 3. The following minimum levels of illuminations must be maintained for each of the specific locations.*

Building entrances	5.0 foot candles
Sidewalks	2.0 foot candles
Bikeways	1.0 foot candles
Courts/Plazas/Terraces	1.5 foot candles
Ramps	5.0 foot candles
Stairways	5.0 foot candles
Underpasses	5.0 foot candles
Waiting Areas	1.0 foot candles
Parking lots	1.0 foot candles
Roadways	1.5 foot candles

* Values given are in minimum average maintained horizontal foot candles which are measured at the average point of illumination between brightest and darkest areas, 4' – 5' above the ground surface.
(Source: IES Lighting Handbook – 4th Edition)

4. Site lighting should provide consistent levels of illumination, avoiding pockets of very high or low levels of illumination.

(5) Awnings.

- a. Use. Awnings may be allowed to enhance the historic character of Main Street. Awnings shall be primarily designed to protect pedestrians, display windows, and public entrances from the weather and to add color and visual interest to the street level façade. Awnings shall not be used for advertising but may contain

the name, phone number and logo. Such graphics shall be included in the overall square footage for allowed signage.

- b. Maintenance. Awnings shall be kept in good repair to maintain the original appearance and ensure public safety.
- c. Dimensions.
 1. Awnings cannot extend across multiple storefronts and/or multiple buildings or exceed a width of forty feet (40') unless otherwise approved by the City Council.
 2. No portion of any awning shall extend nearer than four feet (4') to the face of the nearest curb measured horizontally. The pitch of the awning shall be from 10 to 40 degrees.
 3. All portions of any awning on the first floor of a building shall have a minimum clearance of eight feet (8') in height above the finished grade.
 4. No bubble type awnings are permitted unless they are used over a curved door entrance or a curved window.
- d. Materials. Awnings must be constructed of durable, protective, water-repellent and fire-resistant fabric. The use of vinyl, plastic, rigid fiberglass, or metal panels shall be prohibited.
- e. Color. Dark solid colors are suggested (i.e. dark brown, navy, blue, black, dark green, dark red).
- f. Lighting. Backlit or illuminated awnings are not allowed.
- g. Secured to Building. All awnings shall be securely attached to the building.

- (6) Signs. Signage shall be designed to be integral with the architectural character of the building to which they belong. Specifically, the scale, proportion and color shall be appropriate to the building to which the sign is attached. Elements to be considered include architectural appearance, sign size, type of illumination, sign motion, sign setback, surface colors, and message. The architectural appearance of the sign shall not be so dissimilar to the existing signage on surrounding buildings as to cause impairment in property value or constitute a blighting influence.

The following sections shall also apply to signs within the Main Street Mixed Use District (MS): Section 74.446 General Regulations; Section 74.447 Temporary Signs; and Section 74.445 Exempt Signs. If provisions of this section are in conflict with other standards in this chapter, the most restrictive shall apply. Residential signs shall be regulated by the provisions of Chapter 74, Article III related to residential signs.

- a. East Main Street Mixed Use Districts Sub-Districts 1, 2, and 3. (EM-1, EM-2, EM-3): Business signs, and nameplate signs are permitted, subject to the following regulations:

1. The total surface area of all business signs on a lot shall not exceed four (4) square feet per linear foot of lot frontage. Business nameplates shall not exceed the sum of three square feet for each lineal foot of lot frontage.
2. In the case of corner lots, the shortest length of all sides of the lot with frontage shall be used to calculate the permitted total surface area.
3. No single business sign surface shall exceed 200 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 200 square feet.
4. Pylon signs are prohibited.
5. Monument signs are permitted. No monument sign or any part thereof may project higher than ten feet (10') above average grade at the building line. All portions of the sign must be set back a minimum of five feet (5') from the property line. Monument signs may not exceed forty (40) square feet and shall be included in the total calculation for site signage.
6. No freestanding sign shall be permitted within the sight triangle.
7. No rooftop signs shall be permitted.
8. Integral roof signs are permitted.
9. Sandwich board signs are prohibited.
10. Consistently changing, flashing, moving, rotating, traveling, or scrolling electronic variable signs are prohibited.
11. Design details. Signs cannot block or obliterate design details, windows, or cornices of the building upon which they are placed.
12. In the East Main Street Sub-District 1 (EM-1) only: One hanging sign shall be permitted per storefront and shall be limited to 4½ square feet per side. The hanging sign and decorative supporting arm shall not project more than two feet from the building, and the lowest point of a hanging sign must be no less than eight feet above the sidewalk or ground. Hanging signs will not be included when calculating the total sign area allowed on a property.
13. In the East Main Street Sub-District 3 (EM-3) no neon, or light of similar appearance may be used for interior or exterior signage visible from Main Street, or to accentuate the building in any manner except for signs that display open or closed and provided such signage does not exceed 4 square feet.

- b. West Main Street Mixed Use District (WM): Business signs and nameplate signs are permitted subject to the following regulations:
 - 1. One identification sign, not to exceed 32 square feet in area, for private educational institutions, community centers, rest homes, multiple family uses, nursing homes, and dental offices. It may be illuminated, but non-flashing. A second sign may be permitted if located at a primary entrance onto West Main Street.
 - 2. For single-tenant business, professional office, and retail buildings a business sign not exceeding 40 square feet in surface area or four percent of street façade wall area upon which it is placed, whichever is greater, and indicating only the name and address of the building, occupant or management, may be displayed. For corner lots, two such signs, one facing each street, shall be permitted.
 - 3. Signage shall be limited to 200 square feet in area, including all signs, with not more than 150 square feet of signage attached to the building and not more than 60 square feet of ground sign.
 - 4. Pylon signs are permitted. Businesses that have frontage on two arterial streets may have two pylon signs but may not exceed 200 square feet of total signage.
 - 5. For multi-tenant business, professional office, and retail buildings with multiple entrances, business nameplate signs shall be limited to one flat wall sign which shall not extend more than 18 inches from the face of the building or one awning sign. Each nameplate sign shall not exceed the sum of three (3) square feet for each lineal foot of frontage. Frontage is measured as the distance parallel to a parking area, public right-of-way, or other area in front of the space the tenant occupies.
 - 6. For multi-tenant business, professional office, and retail buildings where there is one common entrance to the inside of the building, one business nameplate sign is permitted which shall not extend more than 18 inches from the face of the building not exceeding 40 square feet or four percent (4%) of street façade wall area, whichever is greater. In no case shall the allowed signage exceed 150 square feet. Such sign shall be located above or next to the entrance of the building on the wall facing the public right-of-way. If the entrance to the building does not face the public right of way, a sign may be located on the wall facing the public right-of-way and a secondary sign no larger than 16 square feet may be located above or next to the entrance of the building.
 - 5. No freestanding sign may project higher than 25 feet above average grade at the building line and all portions of the sign must be setback a minimum of five (5) feet from the property line. No freestanding sign shall be permitted within the sight triangle.

6. Sandwich board signs are prohibited.
7. Rooftop signs are prohibited.
8. Integral roof signs are permitted.
9. Signs shall not block or obliterate design details, windows, or cornices of the building upon which they are placed.

- (7) Building Relationship to Street and Pedestrian Area. In the East Main Street Sub-Districts 1 and 2 (EM-1 and EM-2), all new commercial, office, and mixed-use buildings shall provide a variety of active uses along a public street and/or major pedestrian corridor. This includes, but is not limited to, the use of multiple street-front shops or businesses, multiple entrances into large single tenant buildings and design treatments of entrances, windows, and facades. New buildings and developments shall comply with the following standards for building orientation and entrances.
- a. Buildings in the East Main Street Sub-District 1 (EM-1) will together create the “wall of buildings” effect associated with the traditional “Main Street” areas.
 - b. All buildings shall have at least one patron entrance facing an abutting public street, rather than the parking area. A building may have more than one patron entrance. Patron entrances shall be open to the public during all business hours.
 - c. Patron building entrances shall be architecturally emphasized and visible from the street by utilizing such design features as awnings, canopies, pillars, special building materials or architectural details.
 - d. Commercial or mixed-use structures that have over sixty (60) linear feet of frontage on a major pedestrian area, public sidewalk, or major street shall have a patron entrance onto the major pedestrian area, public sidewalk or major street. For building facades over 200 feet in length facing a street, two or more patron entrances on the street must be provided.
 - e. Building entrances shall incorporate arcades, roofs, porches, alcoves, porticoes and awnings that protect pedestrians from the rain and sun.
 - f. Buildings shall include changes in relief on fifteen percent (15%) of their facades, such as cornices, bases, window treatments, fluted masonry or other designs for pedestrian interest and scale.
 - g. Building facades greater than one hundred feet (100') in length shall have offset jogs, using elements such as bay windows, recessed entrances or other articulation so as to avoid long continuous unbroken building facades.
- (8) Windows, Window Walls, Blank Walls and Design of Ground Floor on Non-residential Buildings.

- a. All development shall provide ground floor windows along facades, parks, plazas, or other public outdoor spaces. Required window areas must be either windows that allow views into working areas or lobbies or pedestrian entrances or display windows. Required windows shall have a sill no higher than four feet (4') above grade, except as follows:
 1. Where interior floor levels prohibit such placement, the sill height may be raised to allow it to be no more than two feet (2') above the finished floor level up to a maximum sill height of six feet (6') above grade.
 - b. No less than twenty-five percent (25%) of the ground level facade facing Main Street shall be transparent (clear or lightly tinted, non-reflective) glass. The applicant must provide calculations of glass and solid surfaces. The use of shutters, louvers or interior blinds is allowed where privacy or restricted views are needed.
 - c. Darkly tinted, frosted windows or any windows that block two way visibility are prohibited as ground floor windows along Main Street facades.
 - d. All window frames must be dark anodized aluminum.

(9) Upper Story Setbacks.

- a. In the East Main Street Sub-District 1 (EM-1), upper story setbacks shall be required for structures over three (3) stories that are adjacent or across a street from residential or public park lands. Upper story setbacks shall be achieved by:
 1. Floors above the third floor or fifty feet (50') shall be stepped back a minimum of ten feet (10'); and
 2. All buildings shall be stepped back such that the height of the building façade does not exceed an angle greater than 45 degrees from the average street elevation, beginning at a point at the curb on the opposite side of the street.
 3. Exception. The Planning Director or designee may waive the setback requirements of this subsection provided that the applicant clearly demonstrates that the proposed project:
 - aa. Includes window treatments, entry placement, façade relief and other architectural treatments to provide visual interest and pedestrian-sensitive design at the street level and to maintain a human scale in the streetscape; and
 - bb. Extends the same architectural features above the ground floor level through variations in design, detail and proportion and by avoiding designs featuring a monolithic street facade.

(10) Roofs and Parapets.

- a. In the East Main Street Sub-District 1 (EM-1), rooflines must complement the character and design of historic East Main Street businesses.
- b. Sloped roofs are not allowed unless the roof form is concealed by a parapet or false front. Exceptions may be granted if the sloped roof is used on top of a multi-story building to reduce the overall height of the façade.

(11) Utility Areas, Mechanical Equipment and Screening.

- a. Utility areas, mechanical equipment and screening must be designed so that they do not detract from the aesthetic appeal of the district.
- b. Materials. The screening of exterior trash, storage areas, service yards, loading areas, transformers, heating, and air conditioning units must use the same materials, colors and/or style as the primary front façade materials.
- c. Roof Equipment. All roof equipment will be screened from public view so as not to be visible from the street. Equipment screens shall be well designed and detailed, using dark colors.
- d. Screening of utility areas. All exterior trash and storage areas, service yards, loading areas, heating and air conditioning units must be screened from view. Camouflaging heating and air conditioning units is an acceptable method of screening. The intent of the screening is to distract the view of these areas, not to provide total screening.

Trash collection areas shall be screened from public rights-of-way and adjacent uses through the use of a six-foot masonry wall enclosure and gate. Trash enclosures shall be compatible with the architectural character of the building they serve and shall incorporate similar materials and colors.

- e. Outdoor Merchandise Displays. Outdoor merchandise displays must be placed against the building or within the landscaped area between the sidewalk and the street. Outdoor merchandise displays shall be displayed only during business hours. No outdoor business display shall be located where it obstructs the line of sight of passing motorists.
- f. Open Storage. Open storage of material, merchandise offered at wholesale, items for salvage or disposal, or items used in the operation of the business, is prohibited.

(k) Landscaping. The use of window boxes, hanging flower baskets, vines and/or other seasonal landscaping is encouraged. Window boxes, hanging baskets and planters should be used around entries. Vines may be used to cover blank walls.

(l) Parking Requirements.

(1) General regulations.

- a. Parking in the Main Street Mixed Use District (MS) must adequately serve the users without distracting from the compact design that makes it a successful commercial corridor.
- b. Exceptions. It is recognized that there may be projects that require a departure from the requirements of this section in order to be feasible. Possible grounds to be considered in determining possible reasons for granting exceptions to this section are as follows:
 1. Safety
 2. Unique site or building characteristics
 3. Application of the standards would have a detrimental effect on the use of the property
 4. Public benefit

(2) Off-street parking of vehicles.

- a. Off-street parking must be located on the side or rear of buildings in the East Main Street Sub-Districts 1,2 and 3 (EM-1,EM-2, EM-3). Parking will be allowed in the front yard of a lot that abuts an intersection of two major roadways (those designated as an A Minor Arterial or Major Collector Roadway) but is not permitted in front of a building along Main Street.
- b. Oversized vehicles are prohibited from overnight parking in the Main Street Mixed Use District (MS) if visible from a public street.
- c. Midsized vehicles are prohibited from overnight parking in the East Main Street Sub-District 1 (EM-1) if visible from a public street.
- d. No more than three (3) midsized vehicles that are visible from a public street may be parked overnight on any one property used for commercial purposes in the East Main Street Sub-District 2 (EM-2) and the West Main Street Sub-District (WM) provided that sufficient off-street parking is available. Such midsized vehicles must be used primarily for business related purposes of a business located on the same property.
- e. Vehicles on residential property are regulated by Section 74-487 of this Chapter.
- f. Overnight parking of semi tractors and/or trailers, dump trucks, fire trucks, buses, recreational vehicles, boats, farm trucks or tractors, tank trucks, stored vehicles and special mobile equipment are prohibited regardless of length, height, or gross vehicle weight.
- g. This section shall not prohibit vehicles or trailers from short-term parking or when loading, unloading, or rendering a service.

- i. This section shall not regulate the size of vehicles for sale, lease or rent provided such vehicles are located upon a property that has obtained a conditional use permit for such use.

- (3) Minimum Off-street parking. The following table establishes minimum parking standards for uses in the West Main Street and East Main Street Sub-Districts 2 and 3 (WM, EM-2 and EM-3); these requirements may be imposed for new mixed use or multiple family residential construction or upon a change in use in the East Main Street Sub-District (EM-1) that includes multi-family residential use if determined by the City Council to best serve the general welfare of the City.

Commercial Retail (per 1,000 sq. ft.)	4 spaces
Commercial Services (per 1,000 sq. ft.)	2 spaces
Office (per 1,000 sq. ft.)	2 spaces
Civic (per 1,000 sq. ft.)	2 spaces
Fast Food Restaurant (150 sq. ft.)	1 space
Dine-in Restaurant (40 sq. ft.)	1 space
Hotel/motel (per room)	1 space
Residential Townhouse (per unit)	1.5 spaces
Residential Multifamily (per unit)	1.5 spaces
Other Uses – as determined by the Planning Director or designee	

- (4) Maximum Off-Street Parking. Provisions for maximum off-street parking shall be as follows:

Building Size	Maximum Parking
0-5,000 square feet	175% of total parking needed based on minimum required
5,001 – 9,999 square feet	Maximum stalls permitted at 5,000 sf. + [0.5 * (Building square footage – 5,000) / 1,000)* Minimum stalls per 1,000 sf
10,000 square feet and greater	Maximum stalls permitted at 10,000 sf. + [1.1 * (Building square footage – 10,000) / 1,000)* Minimum stalls per 1,000 sf

- (5) Shared parking. Shared parking between complementary uses is encouraged. Access, circulation, use and maintenance agreements are required as part of the overall development approval for uses with shared parking.
- (6) Parking lots. In instances where parking areas abut the street, the sidewalk edge must be delineated with landscaping, architectural fencing or other decorative features.
- (7) Vehicular circulation and parking. Parking and vehicular circulation shall comply with the following standards:
- a. Parking drives and drive-thru (drive-up facilities) should be located away from building entrances, be designed to minimize pedestrian

conflicts, and shall not be located between the main building entrance and Main Street.

- b. Surface parking lots shall be oriented behind or to the sides of buildings unless otherwise allowed in this section.
- c. Parking ramps shall be designed to be architecturally integrated into the overall site and be made of comparable materials and decorative elements.

(m) Approval Process.

- (1) Site Plan Procedures. All development proposals under Section 74.265 (d) 1 shall be reviewed under the site plan approval process as set forth in this subsection.
 - a. Application. Application for a site plan review shall be made to the Planning Department on forms provided by the City and shall be accompanied by the following:
 1. A survey or plat of the property
 2. Evidence of ownership or an interest in the property
 3. The fee specified in the City's fee schedule
 4. Information regarding project phasing and timing
 5. Complete development plans as specified under Section 74.2 of the City Code, signed by a registered architect, civil engineer, landscape architect or other appropriate design professional, as required by the State building code
 6. Architectural plans (for new construction), showing the following:
 - aa. Colored elevations of all sides of the building
 - bb. Type, color and samples of exterior building materials
 - cc. Typical floor plans
 - dd. Dimensions of all structures
 - ee. The location of exterior trash storage areas and of exterior electrical, heating, ventilation, and air conditioning equipment
 - ff. Utility plans including water, sanitary sewer, and storm sewer
 - gg. A plan showing landscape, lighting and signs
 - hh. Illustrations that show adjacent building elevations to show the scale of adjacent buildings and landscaping

ii. Such other information as may be required by the City to process the application

b. Public hearing. Upon receipt of a completed application, a date shall be set for a public hearing before the Planning Commission. The hearing will be held no less than ten (10) days after mailed notice is sent to the owners of the property located wholly or partially within 350 feet of the site. The Planning Commission shall submit its recommendation to the City Council. Following appropriate review, the Council shall make a decision regarding the application.

(2) Other Approvals. In cases where there is uncertainty or disagreement about compliance with the standards of this section, the Planning Director or designee may refer development approvals, as listed in Section 74.265 (d) 2 though 6, to the Planning Commission and City Council to determine that the proposal meets the standards of this Section.

(n) Enforceability.

(1) Violation. Unless expressly provided otherwise, it shall be a misdemeanor for any person or entity to violate any provision of the City Code, including this Section, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Section. The term "misdemeanor" is defined in Minnesota Statutes Section 609.02, subd. 3, as amended. In addition to prosecuting a violation as a misdemeanor, the City may separately, or in conjunction with the misdemeanor prosecution, bring an action for specific performance to enforce any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of such provision, or any order lawfully enforcing the City Code, including this Section.

Section 74-266.

Transit Oriented Development District (TOD).

(a) *Purpose and Intent of District.* The TOD Districts are designed and intended to encourage a mixture of residential, commercial and civic uses in proximity to the commuter rail station at densities and intensities that support and increase transit use. The districts are also intended to:

- (1) Encourage a safe and pleasant pedestrian environment near the rail station and to limit conflicts between pedestrians and vehicles.
- (2) Maximize access to transit.
- (3) Encourage use of transit infrastructure.
- (4) Provide parking in an unobtrusive manner.
- (5) Reduce parking requirements by encouraging shared parking and alternative modes of transportation.
- (6) Encourage a sense of activity and liveliness along the street level of building facades.

(b) *Applicability.* The TOD District regulations shall apply to the TOD Districts as shown on the official zoning map.

(c) *Definitions.* For the purposes of this Section, the following words and phrases shall have the meanings ascribed to them by this Section or Section 74-2 of the City Code. Words not defined shall have the plain meaning generally ascribed to them.

Congregate living. A non-institutional, independent group living environment that integrates shelter and service needs of seniors who do not need institutional supervision and/or intensive health care.

Data center. A facility used to house computer systems and associated components, such as telecommunications and storage systems. It generally includes redundant or backup power supplies, redundant data communications connections, environmental controls (e.g., air conditioning, fire suppression) and security devices.

Floor area ratio (FAR). The relationship between the amount of useable floor area permitted in a building and the area of the lot on which the building is located. FAR is calculated by dividing the gross floor area of a building by the total area of the lot.

Gross floor area. The sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or, if appropriate, from the center line of a dividing wall between buildings.

Laboratory, medical or dental. An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient, at the direction of a physician; or an establishment primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession.

Live/work buildings. Live/work buildings are similar to townhouses; however, they have two entries: one to the ground floor and another to the residential unit above. The ground floor unit is typically used for small scale retail or service retail uses.

Mixed-use buildings. Buildings that accommodate a range of uses in a vertical format. Typically they contain retail or other active uses at grade and residential or offices on the upper floors. Community uses such as a day care or medical offices may also be located in a mixed-use building.

Research, development and testing laboratory. An establishment in which facilities for scientific research, investigation, testing or experimentation are located, but not facilities for the manufacture of products, except as incidental to the main purpose of the laboratory.

(d) *Transit Oriented Development Districts.*

(1) *TOD – R: Transit Oriented Development District with a Residential Emphasis.*

This district is intended to facilitate the creation of compact, pedestrian-oriented neighborhoods. The resulting neighborhood would be predominantly residential in nature but may include existing commercial and new compatibly-scaled commercial areas.

Designation as a TOD – R is intended to create a zoning district with the following characteristics:

- a. Concentrations of multi-family and attached housing near the commuter rail station area with density decreasing as distance from the rail station increases.
- b. New non-residential uses that are transit-supportive.
- c. A pedestrian friendly environment that includes access to transit and pedestrian connectivity within the district.

(2) *TOD – E: Transit Oriented Development District with an Employment Emphasis.*

This district is intended to facilitate the creation of a high employment area in relatively close proximity to the rail station area. Streets and buildings should be arranged for pedestrian circulation. This district targets office and commercial uses. Designation as a TOD – E would create a zoning district with the following characteristics:

- a. Concentrations of jobs within $\frac{1}{4}$ mile of the rail station.
- b. Parking minimized by limiting the size and placement of parking lots.
- c. A highly pedestrian setting with an emphasis on pedestrian connectivity.
- d. An area of street level activity.

(e) *Use Regulations.* The following table indicates allowed land uses within the TOD Districts. As shown in the chart, P is for Permitted Uses; C is for Conditionally Permitted Uses; I is for Interim Uses; and N is for Not Permitted.

Uses that are not listed as permitted or permitted with a conditional use permit or interim use permit are considered prohibited. Surface parking lots not related to a particular use are not permitted unless used for public transit-related parking.

	TOD - R	TOD - E
Residential Uses		
Townhouse, rowhouse	P	N
Dwelling unit located at ground level (mixed-use building)	P	N
Dwelling unit located above ground floor (mixed-use building)	P	P
Live-work building	P	P
Congregate housing for senior populations	P	C
Apartments, condominiums, co-ops	P	P
Civic and Semi-Public Uses		
Schools for business, trade, dancing and music	N	C

	TOD - R	TOD - E
Day care centers in a mixed use building	P	P
Park and public recreation facilities	P	P
Transit stations and related parking facilities	P	P
Essential services	P	P
Commercial Uses		
Retail sales and service establishments, financial services (in a mixed use building).	P	P
Drive-through	N	C
Offices – general, medical, professional in mixed use building	P	P
Office in free-standing building	N	P
Service businesses such as beauty shops, barbershops, dry-cleaning drop-off/pickup (no on-site processing) in a mixed use building.	P	P
Data centers	N	C
Hotels	P	P
Conference center	C	P
Theaters (with structured parking)	N	P
Structured parking facilities	P	P
Restaurants, including open air or sidewalk cafes (in mixed use building)	P	P
Merchandise stands for outdoor sale of goods at street level (outdoor storage prohibited)	P	P*
Automotive services, detailing, car specialty services (not including body repair, major repair)	N	C
Outdoor sales in conjunction with a permitted use	N	P
Rental of vehicles (with limited outside storage)	N	C
Towing services (with no outside storage of vehicles)	N	P
Emergency services, ambulance services	N	P
Research, development and testing laboratory	N	P
Laboratory, medical or dental	N	P
Fabrication of office and computer equipment	N	P
Fabrication of apparel, leather products, and other products from prepared products	N	P
Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics	N	P
Radio and television broadcasting studios that do not require exterior towers, antennas or dishes.	N	P
Printing, publishing, bookbinding, blueprinting, newspaper publication	N	P
Internet publishing and broadcasting	N	P
Motion picture and sound recording industries	N	P
Administrative support services	N	P
Fitness and recreation centers	P **	P
Catalog and mail order	N	P
Medical appliance assembly	N	P
Biotechnology	N	P
Accessory uses	P	P
National, Regional or Micro Brewery with Taproom	N	C
Brewpub	N	P

* This use shall meet all requirements and obtain appropriate licenses as required in Chapter 22 (of the City Code), Article IV Peddlers, Solicitors and Transient Merchants.

** In a mixed-use building.

- (f) *Site Plan Approval Required.* A site plan approval is required for all new construction in a TOD District.
- (1) Application. Application for a site plan review shall be made to the Planning Department on forms provided by the City and shall be accompanied by the following:
- a. A survey or plat of the property.
 - b. Evidence of ownership or interest in the property.
 - c. The fee specified in the City's fee schedule.
 - d. Information regarding project phasing and timing.
 - e. Complete development plans as specified under Section 74.2 of the City Code, signed by a registered architect, civil engineer, landscape architect or other appropriate design professional, as required by the State Building Code.
 - f. Architectural plans (for new construction), showing the following:
 1. Colored elevations of all sides of the building.
 2. Type, color and samples of exterior building materials.
 3. Typical floor plans.
 4. Dimensions of all structures.
 5. The location of exterior trash storage areas and of exterior electrical, heating, ventilation, and air conditioning equipment.
 6. Utility plans including water, sanitary sewer, and storm sewer.
 7. A plan showing landscaping, lighting and signs.
 8. Illustrations that show adjacent building elevations to show the scale of adjacent buildings and landscaping,
 9. Such other information as may be required by the City to process the application.
- (2) Public hearing. Upon receipt of a completed application, a date shall be set for a public hearing before the Planning Commission. The hearing will be held no less than (10) days after mailed notice is sent to the owners of property located wholly or partially within 350 feet of the site. The Planning Commission shall submit its recommendation to the City Council. Following appropriate review, the Council shall make a decision regarding the application.
- (g) *Specific Conditional Use Permit Standards.* The standards in this sub-section apply to the uses that are listed as conditional uses within the TOD districts and shall apply in addition to the general criteria for granting conditional use permits.
- (1) *Congregate Housing for Senior Populations.*

- a. Any on-site services shall be for the residents of the facility only.

- b. A designated area for the short-term parking of vehicles engaged in loading and unloading residents shall be provided. The designated area shall be located as close as practical to the principal entrance of the building and shall be connected to the building by a sidewalk.

(2) *Commercial schools and professional training facilities.*

- a. All activities shall be conducted within an enclosed building.
- b. To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings. Exterior building materials shall be harmonious with other buildings in the neighborhood.
- c. An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.

(3) *Drive-through.*

- a. Curb-cut entrances for queuing driveways and exit driveways shall be consolidated with any other driveway entrances or exits on the site.
- b. A minimum of one hundred feet (100') leading to the drive-up window for one lane and sixty feet (60') per lane when more than one lane shall be provided for queuing.
- c. The queuing area shall not contain any pedestrian crosswalks or sidewalks. Driveway lanes shall be designed so that queuing vehicles do not interfere with other vehicle and pedestrian circulation on the site.
- d. Driveways shall not be located between a principal building and the street, or if a corner site, all adjacent roadways.
- e. All queuing lanes shall be clearly identified using striping, landscaping, and/or signs. Drive-up windows shall be located to the rear or side of a building.

(4) *Conference Center.*

- a. Restaurants that are accessory to the conference center shall only be permitted if located within the conference center building.
- b. Stores, shops and service facilities located within the conference center building are a permitted accessory use. Such facilities shall be primarily for the use and convenience of guests.

(5) *Automotive Services.*

- a. All vehicles parked or stored on site shall display a current license plate with a current license tab.
- b. Outside storage of any kind is prohibited.
- c. Junk vehicles may not be located outside at anytime.
- d. All vehicles, other than junk vehicles, waiting for repair or pick-up shall be stored on the site within an enclosed building or in parking spaces in compliance with Section 74-266.
- e. As a condition of approval, the Planning Commission and City Council may limit the amount of vehicles that may be stored overnight.
- f. All repairs shall be performed within a completely enclosed building.

(6) *Vehicle Rental.*

- a. All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automotive parts or storage of junk vehicles shall be prohibited.
- b. No fuel pumps shall be provided on site.
- c. Parking areas must be in conformance with the parking requirements set forth in this section.
- d. The sale or repair of vehicles shall be prohibited.
- e. As a condition of approval, the Planning Commission and City Council may limit the number of vehicles displayed for rent on the site.

(h) *Bulk and Dimensional Standards.* The following requirements apply to all buildings or uses in a TOD District unless otherwise specified.

(1) *Height and Setbacks.*

	Residential Townhouse	Residential Apt., Condo, Co-op	Mixed – Use Building	Commercial, Civic not in Mixed-Use Building
Height	3 stories or 35 feet, whichever is less	2 stories minimum 4 stories maximum*	2 stories minimum 4 stories maximum*	No minimum 4 stories maximum*
Setbacks	Front: Maximum of 15 feet Side: 10 feet Rear: 15 feet	Front: Maximum of 15 feet Side: 10 feet Rear: 15 feet	Front: Maximum of 8 feet Side: 10 feet Rear: None required	Front: Maximum of 8 feet Side: 10 feet Rear: None required

* Maximum height may be increased upon issuance of a Conditional Use Permit. Single-story buildings shall have a foot print of no more than 15,000 square feet.

a. Height and Setback Standards.

1. If new construction incorporates an existing structure located within a minimum setback, the Planning Director or designee may allow the setback for the building addition to be reduced to the established setback.
2. All above ground utility structures associated with electric, natural gas, telecommunication, cable television distribution lines, pipes, conduits or other public utilities shall be located behind the minimum setback unless otherwise approved as part of the site plan approval. This applies to air vents, utility boxes and back-flow preventers.
3. Driveways may cross the front setback, but shall be as near as perpendicular to the street for pedestrian safety and to minimize the intrusion into any landscaped area.
4. Balconies may project up to two feet (2') over the right-of-way, subject to an approved sidewalk encroachment agreement. Balconies shall have a minimum clearance of ten feet (10') from grade.
5. Side and rear yards adjacent to properties zoned for single-family residential (R-1). When a lot abuts an existing single-family residence or a property that may be used for single-family residential purposes, a minimum side yard of fifteen feet (15') and a rear yard of twenty-five feet (25') shall be required.
6. Maximum height adjacent to single family residential. The permitted maximum height shall be determined by the distance of the structure to the boundary line of the nearest single-family residential district. Any required side or rear yard setback shall be increased one foot for each additional foot of height.

(2) Minimum residential density.

- a. Residential developments and the residential components of mixed-use buildings shall have a minimum density of eleven (11) dwelling units per acre. Densities shall be based on the residential portion of the site.
- b. For large and phased projects, the residential density for each phase shall meet or exceed the minimum density requirements. If phases cannot meet this requirement, but the overall master plan for the development meets or exceeds the minimum

density requirement, then approval may be granted for phases that meet at least eighty percent (80%) of the minimum density requirements.

(3) Floor area ratio (FAR).

- a. The total minimum floor area ratio of buildings on a development site shall not be less than 0.50 square feet of floor area to 1 square foot of the development site (0.50 FAR). The FAR shall apply to all non-residential uses except for civic uses and residential uses in mixed use buildings.
- b. For large or phased projects, the FAR for each phase shall meet or exceed the minimum FAR requirements. If phases cannot meet this requirement, but the overall master plan meets or exceeds minimum FAR requirements, approval may be granted for phases that meet at least eighty percent (80%) of the minimum FAR requirements.
- c. Plazas, courtyards, outdoor cafes, rooftop gardens, and widened public sidewalks that enhance pedestrian spaces and amenities can be credited toward meeting the minimum required FAR. If the pedestrian space/amenities are available to the public, then the square footage of the amenity shall be credited at one hundred percent (100%). If private, then the square footage shall be credited at fifty percent (50%). In no instance shall more than twenty percent (20%) of the pedestrian area be credited toward the required FAR.
- d. An FAR credit of fifty percent (50%) shall be given for structured parking facilities that devote at least seventy-five percent (75%) of the linear street level frontage of the building to retail, office, civic or institutional uses. Similarly, an FAR credit shall also be given for structured parking facilities that provide such uses above the street level and/or on any other side of the building.
- e. The following uses are exempt from meeting the minimum FAR requirement:
 1. Transit stations (bus or rail), parking facilities for such facilities, and bus shelters.
 2. Existing development and expansions of existing developments.
 3. Public parks and playgrounds.
 4. Utilities and related facilities.

(i) *Open Storage Prohibited.* Except as otherwise specified in this section, outside storage shall be prohibited in the TOD districts.

(j) *Open Space Requirement.* Developers will be expected to work with the city to provide a minimum of five percent (5%) of the project site as open space. The open space may be designed as a square, plaza, terrace, or green, with a variety

of landscaped and paved surfaces and seating areas. This requirement may be waived in cases where the City's master plan specifies the location and design of open space.

(k) *Parking Requirements.*

- (1) For purposes of this section, new uses within a TOD District shall be required to meet the minimum/maximum parking spaces as shown in the following chart. All square footage is measured as 'gross footage.'

USE	MINIMUM/MAXIMUM NUMBER OF PARKING SPACES
Residential	Maximum of 1.6 parking spaces per dwelling unit
Restaurants	Minimum of one parking space per 75 square feet of restaurant seating space but no more than one space per 150 square feet of restaurant seating space.
Retail, Office, and Service	Maximum of one space per 250 square feet
Other permitted uses	Maximum of one space per 500 square feet

- (2) The required/permited number of parking spaces for any building within the TOD District, including mixed-use buildings, shall be the sum total of the requirements for each use in the building.
- (3) Parking maximums may be exceeded under the following circumstances, if one or more of the following is provided.
- a. If structured or underground parking is provided on site, parking may be exceeded by twenty-five percent (25%).
 - b. If a shared parking agreement is executed, parking may be exceeded by twenty percent (20%).
 - c. If all parking spaces are located behind the building and are not visible from the public right-of-way, parking may be exceeded by ten percent (10%).
 - d. If driveways and access points are shared by at least two adjacent properties, parking may be exceeded by ten percent (10%).
 - e. If a provision is made for combining or interconnecting adjacent parking lots and pedestrian access points, parking may be exceeded by ten percent (10%).
 - f. In no case shall the cumulative increase in parking exceed twenty-five percent (25%).
 - g. A twenty-five percent (25%) parking reduction in the minimum number of parking spaces required is allowed if the principal use is located within 800 feet of a parking facility with public spaces available to the general public or within 800 feet of a public transit park and ride facility with an approved joint use agreement.

- (4) The off-street parking standards shall conform to the general requirements for off street parking located in Article IX, Division 2 of this Chapter, except as otherwise provided for in this section.
- (5) No surface parking or maneuvering space shall be permitted within a required setback or between the primary structure and the front yard, except that driveways providing access to the parking area may be installed across these areas. It is the intent that these driveways be as nearly perpendicular to the street right-of-way as possible for pedestrian safety and to minimize intrusion into the landscaped areas.
 - a. Exceptions. It is recognized that there may be development that require a departure from the requirements of this section be developed and capitalize on the site attributes unique to individual sites based on location. Criteria to be considered in determining an exception to this section are as follows:
 - 1. Sites with housing adjacent to the river:

Housing along the Rum River shall capitalize on the waterfront views and the parking may be located between the primary structure and the street right-of-way to preserve the views to the river.
 - 2. Sites that are surrounded on all sides by street right-of-way:

Buildings and parking shall be placed on sites balancing visibility along Highway 10 with the desire for a strong building presence along Pierce Street. Perimeter surface parking is allowed with enhanced tree planting, landscaping, and site amenities.
 - 3. Sites adjacent to Buchanan Street:

Properties with primary access off of Buchanan Street shall have parking in the rear and sides of the building and provide strong pedestrian connections from the parking and Buchanan Street. Parking is allowed adjacent to commercial/industrial service streets as designated in the Anoka Station Master Plan as long as parking lots are well landscaped and screened.
 - b. The Planning Commission may recommend and the City Council may approve the proposed development upon determining that the proposed site design meets one of the criteria for granting an exception for parking. If the development meets the criteria for an exception, for commercial and industrial uses, no off-street parking or loading shall be located within ten (10) feet of any property line. For residential uses, no off-street parking or loading shall be located within five (5) feet of any property line.

- (6) On-street parking spaces located along the portion of a public street(s) abutting the use where parking is currently permitted may be counted toward the minimum number of parking spaces as required by this section. Those on-street parking spaces must be located on the same side of the street as the use, have a dimension of at least twenty feet (20') in length, and be located in areas approved by the City's Public Services Department. On-street parking directly across the street from the use may be counted if that parking abuts property that is undevelopable because of physical constraints.
- In the event the City, County or State remove any on-street parking that was allowed to count toward the minimum requirement, the existing use shall not be required to make up the difference and shall not be made nonconforming with respect to parking.
- On-street parking shall not be counted in calculating maximum parking spaces.
- (7) Parking requirements may be met on-site or off-site at a distance of up to 800 feet from the permitted use. Off-site parking to meet the requirements of this section may be provided through a lease, subject to the review and approval of the City.
- (8) Parking that is located to the rear of the primary structure may extend the entire width of the lot, with the exception of any required screening or landscaped areas. Parking that is located to the side of the primary structure shall not cover more than thirty-five percent (35%) of the total lot width.
- (9) Shared parking shall be permitted and encouraged.
- (10) Bicycle parking facilities are encouraged.
- (11) All parking areas for more than ten (10) motorized vehicles (except for parking areas for two-family and townhouse dwellings on a single lot) shall provide screening. If a wall is provided, then the area devoted to the wall shall be wide enough to allow for its maintenance. The screening may be eliminated if abutting parking lots are combined or interconnected with vehicular and pedestrian access.
- (12) Structured parking facilities shall meet the following additional requirements:
- a. At least fifty percent (50%) of the linear street level frontage of the facility shall be devoted to retail, office, civic, institutional, or residential uses. If seventy-five percent (75%) or more of the linear street frontage is devoted to such uses, then the total square footage of these uses shall be credited one hundred percent (100%) toward the required FAR minimums.
 - b. If retail, office, civic, institutional or residential uses are constructed on the rear or side of the facility or above the ground floor on the street frontage of the facility, then the total square footage of these areas shall be credited one hundred percent (100%) toward the required FAR minimums.

- c. Underground parking structures are permitted. Subsurface parking located in the minimum setback shall be permitted with an eight foot (8') clearance from the top of the subsurface structure to the sidewalk, subject to an approved encroachment agreement. No ventilation shall be permitted in the setback.
- d. A minimum nine foot (9') clearance shall be maintained on the first level and any additional level that provides disabled parking spaces. A minimum seven foot (7') clearance shall be maintained throughout the remainder of the parking deck to ensure the safe movement of vans and emergency vehicles.

(13) Loading standards.

- a. Non-residential buildings and structures, excluding parking structures, subject to the provisions of this Section, shall provide a minimum number of off-street service/delivery loading spaces. The loading spaces shall be designed and constructed so that all parking maneuvers can take place entirely within the property lines of the premises and shall not interfere with the normal movement of vehicles and pedestrians on the public rights-of-way. The loading spaces shall be a minimum of ten feet (10') by twenty-five feet (25') and shall be provided in accordance with the following:

Non-residential uses with gross floor area:

Less than 50,000 square feet	None required
50,000 – 150,000 square feet	One (1) space
Each additional 100,000 square feet	One (1) space

Existing buildings are exempt from these standards.

- b. No loading spaces shall be permitted within any required or established setback, or between the primary structure and the required setback, except that driveways providing access to the loading area may be installed across these areas.

(I) *Design Standards.*

(1) Architectural standards.

- a. Facades.
 - 1. Visual Breaks. The exterior of new buildings shall be designed with visual breaks through the use of decorative tile work, masonry (but not flat concrete block), belt courses of a different texture and color, projecting cornices, medallions, opaque or translucent glass, artwork, vertical articulation, lighting fixtures, or architectural elements not listed herein as approved by the City Council.
 - 2. Width. A building more than 45 feet in width shall be divided into increments of no more than 45 feet through articulation of the facade. This can be

achieved through combinations of the following techniques:

- aa. Division or breaks in materials
- bb. Window bays
- cc. Special treatment at entrances
- dd. Subtle variations in rooflines and parapet detailing
- ee. Building setbacks
- ff. Awnings
- gg. Repetitive elements

b. Exterior Materials and Detailing.

1. New buildings and structures, additions and renovations must be constructed of durable materials.

2. In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following:

- aa. An intermediate cornice line
- bb. A difference in building materials or detailing
- cc. An offset in the facade
- dd. An awning, loggia or arcade
- ee. Special window lintels
- ff. Brick/stone corbels

3. The exterior opaque materials on each elevation of a building must be brick, stone, decorative masonry or similar materials or a combination thereof according to the table below. The brick, stone, or decorative masonry shall be focused on prominent architectural features, particularly the office components of the building, elevations that include a primary building entrance or multiple tenant entrances, corners of buildings, and the prominent building elevations fronting on public streets.

<u>Transit Village Uses</u>	<u>Percentage of building facade with brick, stone, or decorative masonry</u>		
	<u>Public Façade*</u>	<u>Side Façade</u>	<u>Interior Facade</u>
<u>Commercial Uses</u>			
<u>Retail</u>	<u>75%</u>	<u>75%</u>	<u>25%</u>
<u>Mixed Use</u>	<u>75%</u>	<u>75%</u>	<u>25%</u>
<u>Professional Office</u>	<u>75%</u>	<u>75%</u>	<u>25%</u>
<u>Office/Service/Flex</u>	<u>75%</u>	<u>75%</u>	<u>25%</u>
<u>Light Industrial/Flex</u>	<u>50%</u>	<u>25%</u>	<u>10%</u>
<u>Residential Uses</u>			
<u>Low Density Residential</u>	<u>25%</u>	<u>25%</u>	<u>10%</u>
<u>Medium Density Residential</u>	<u>50%</u>	<u>33%</u>	<u>25%</u>
<u>High Density Residential</u>	<u>50%</u>	<u>33%</u>	<u>25%</u>
<u>Senior Housing</u>	<u>50%</u>	<u>33%</u>	<u>25%</u>

*For purposes of the table above, the public façade shall be determined using the following definition:

Public Façade. Side(s) of a building that is visible from and within two-hundred feet (200') of a public street, rail line, public park, public plaza or other public open space,

4. The remaining percentage of the building exterior opaque materials shall be comprised of the following materials:
 - aa. Cast stone
 - bb. Wood shingles (cedar shingles with 6-inch maximum exposure)
 - cc. Lap siding, cedar or redwood (6 inch width, no diagonal siding)
 - dd. Tongue and groove paneling, cedar or redwood (6 inch width, no diagonal siding)
 - ee. Copper (untreated)
 - ff. Stucco and EIFS
 - gg. Cement board
 - hh. Glass (does not include windows)
 - ii. Dark anodized aluminum
 - jj. Materials that are similar in character to those listed above.
5. The following materials are not allowed as exterior materials:
 - aa. Painted or unpainted concrete block
 - bb. Aluminum, vinyl or fiberglass siding or roofing materials.
 - cc. Precast concrete materials, unless specifically approved by the City Council for a new commercial building.
 - dd. Painting of previously unpainted brick
 - ee. Wooden exteriors
6. LEED (Leadership in Energy and Environmental Design) Standards. The City encourages the use of sustainable building materials and construction techniques through programs such as US Green Building Council's LEED program.
7. Alternative Designs or Materials. To encourage creativity, imagination, innovation and variety in architectural design, the Planning Commission may recommend modifications of the requirements of this Section and the City Council may approve such modifications upon determining that the proposed architectural design or exterior facade(s) materials meet all of the following conditions:
 - aa. The proposed design or material is consistent with the purposes of this section.
 - bb. The proposed design or material would enhance the architectural appearance of the building and would be equal or superior to

designs or materials permitted by this section.

cc. The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding district.

(2) Screening standards.

- a. All service entrances, utility structures associated with a building, and loading docks and/or spaces shall be screened from the abutting property and from public view from a public street.
- b. Any fences or walls used for screening or other purposes shall be constructed in a durable fashion of brick, stone and other masonry materials specifically designed as fencing materials. The finished side of the fence shall face the abutting property. Chain link, wood, vinyl or barbed wire fences are not permitted.
- c. The composition of the screening material and the placement on the lot shall be left up to the discretion of the property owners as long as the intent of this Section is met. A wall cannot be substituted for a planting strip along any public street unless supplemented by landscaping.
- d. Landscaping used for screening shall be evergreen and at least four feet (4') tall with a minimum spread of two feet (2') when planted and no further apart than five feet (5'). Shrubs shall be adequately maintained so that an average height of five to six feet can be expected as normal growth within four years of planting. The average expected height may be reduced to four feet (4') for screening along public streets.
- e. The maximum height for walls and fences shall be six feet (6') or whatever is sufficient to visually screen the use but not less than four feet (4').
- f. Dumpsters, recycling containers, compactors, and solid waste handling areas are not permitted in any setback or yard and shall be screened from adjacent property and from public view with a six-foot high solid and finished masonry wall with closeable gates. In no instance shall a chain link fence, wood, vinyl or barbed wire fence be permitted.

(3) Buffer standards.

- a. All uses, other than single-family detached dwelling units, shall provide landscaping along all property lines abutting residentially used property located adjacent to a TOD District. This requirement also applies in situations where an alley with a right-of-way width of twenty-five feet (25') or less separates uses in a TOD District from a non-TOD residential property. Landscaping shall be provided along all property lines abutting the alley when adjacent to residential uses. Multi-family developments in a TOD District are exempt from this

landscaping requirement when they abut other multi-family uses.

- b. In no instance shall a chain link, wood, vinyl or barbed wire fence be permitted.

(4) Exterior lighting standards.

- a. Exterior lighting shall be used to provide illumination for the security and safety of entry drives, parking, service and loading areas, pathways, courtyards and plazas, without intruding on adjacent properties and shall comply with the following standards:

1. Poles and fixtures shall be architecturally compatible with structures and lighting on-site and on adjacent properties.
2. Security lighting shall be adequate for visibility, but not overly bright.
3. Metal halide lighting shall be used with a concealed light source of the “cut-off” variety to prevent glare and “light trespass” onto adjacent buildings and sites.
4. Poles within landscaped areas and plazas shall have a maximum height of twenty feet (20’), measured from grade, and shall be coordinated with city standards.
5. Poles in parking lots shall have a maximum height of 24 feet (24’) measured from finished grade.
6. Lighting fixtures mounted directly on structures shall be permitted when utilized to enhance specific architectural elements or to help establish scale or provide visual interest.
7. “Wall paks” shall be permitted only in loading and service areas and shall be down-lit and shielded from view.
8. Shielded illumination or fixtures shall be permitted to light building mounted signage, building facades, or pedestrian arcades if they are integrated into a building’s architectural design.
9. Lighting should highlight entrances, art, terraces, and special landscape features.
10. Separate pedestrian scale lighting or other low level fixtures, such as bollards, shall be incorporated for all pedestrian ways through parking lots and drop-off areas at entrances to buildings.
11. All primary walkways, steps or ramps along pedestrian routes shall be illuminated.

- b. Light Intensity.
1. A photometric lighting plan is required for all proposed commercial developments to ensure that adequate and appropriate light levels are provided for each site condition.
 2. Lighting shall not exceed 0.1 foot candle at residential property lines or 0.5 foot candle on non-residential property lines measured on a vertical plane.
 3. The following minimum levels of illumination must be maintained for each of the specific locations.*

Building entrances	5.0 foot candles
Sidewalks	2.0 foot candles
Bikeways	1.0 foot candles
Courts/Plazas/Terraces	1.5 foot candles
Ramps	5.0 foot candles
Stairways	5.0 foot candles
Underpasses	5.0 foot candles
Waiting Areas	1.0 foot candles
Parking Lots	1.0 foot candles
Roadways	1.5 foot candles

* Values given are in minimum average maintained horizontal foot candles which are measured at the average point of illumination between brightest and darkest areas, 4' – 5' above the ground surface.
(Source: IES Lighting Handbook – 4th Edition.)

4. Site lighting should provide consistent levels of illumination, avoiding pockets of very high or low levels of illumination.

- (5) Connectivity and Circulation. Transit oriented development uses shall be integrated with the surrounding area, easily accessible, and have a good internal circulation system for a variety of travel modes.

- a. A pedestrian sidewalk system shall meet the following standards:
1. Internal sidewalk connections are required between buildings and from buildings to all on-site facilities (parking areas, bicycle facilities, open space, etc.). All internal sidewalks shall be finished with a hard surface as required by the City's Public Services Department.
 2. External sidewalk connections are required to provide direct connections from all buildings on site to the existing and/or required sidewalk system and to adjacent multi-use trails, parks and greenways. Sidewalks shall be constructed with a hard surface

and of a width as required by the City's Public Services Department.

3. The on-site pedestrian circulation system shall be lighted to a level where employees, residents and customers can safely use the system at night.

(7) *Urban Open Spaces.*

- a. Urban open space for public congregation and recreational opportunities shall be required for all new buildings with a gross floor area greater than 50,000 square feet. Such buildings must provide useable open space behind the required setback and on private property proportionate to the building square footage according to the following schedule:

Lot Size	Open Space Requirement
0 – 20,000 sq. ft.	1 sq. foot/200 sq. feet (gross)
20,001 to 40,000 sq. ft.	1 sq. foot/150 sq. feet (gross)
40,001 + square feet	1 sq. foot/100 sq. feet (gross)

- b. Open space may be located on roofs of buildings or enclosed on the ground floor. A maximum of thirty percent (30%) of the required open space may be provided on an enclosed ground floor level.
- c. All required open space shall be accessible to the users of the building and shall be improved with seating, plantings, and amenities and be visible from the street or pedestrian areas.
- d. Floor area ratio credits are allowed for all new developments when the pedestrian space is available for use by the public, including widened sidewalk areas.

(m) *Street Design.*

(1) *Street Walls.*

- a. All non-residential buildings fronting directly on a street shall be designed so that the first floor street facade of the building(s) along all streets include clear glass windows and doors to create pedestrian interest. These openings shall be arranged so that the uses are visible from and to the street on at least fifty percent (50%) of the length of the first floor street level frontage.
- b. For all other uses, buildings shall be designed so that the first floor street facade along all streets includes the use of clear glass windows and doors arranged so that the uses are visible from and/or accessible to the street on at least twenty-five percent (25%) of the length of the first floor street frontage. When this approach is not feasible, a combination of design elements shall be used on the building facade or included into the site design to animate and enliven the streetscape. These design elements may include but are not limited to the

following: ornamentation, molding, string courses, changes in material or color, architectural lighting, works of art, fountains and pools, street furniture, stoops, landscaping and garden areas, and display areas.

- c. The first floor of all buildings, including structured parking facilities, shall be designed to encourage and compliment pedestrian scale interest and activity.
- d. Expanses of blank walls shall not exceed twenty (20) continuous feet in length. A blank wall is a facade that does not add to the character of the streetscape and does not contain clear glass windows or doors or sufficient ornamentation, decoration or articulation.
- e. No reflective surfaces shall be permitted on street level exterior facades.
- f. Ventilation grates on the building or emergency exit doors located on the first floor street facade(s) shall be decorative and part of the overall building design.

- (2) Base of multi-story buildings.
 - a. The first three (3) floors above street grade shall be distinguished from the remainder of the building with an emphasis on providing design elements that will enhance the pedestrian environment. Such elements as cornices, corbeling, molding, stringcourses, ornamentation, changes in material or color, recessing, architectural lighting and other sculpturing of the base as are appropriate shall be provided to add special interest to the base.
 - b. In the design of the building facade, attention shall be paid to the appearance both during the day and at night. Material and color changes alone do not meet the requirements of this section. Design elements that are used to meet the requirements of this section shall be visually continuous around the building. In the event that a building facade is not visible from a public right-of-way, this requirement may be waived.
 - c. Special attention shall be given to the design of windows in the base. Band windows are prohibited. Recessed windows that are distinguished from the shaft of the building through the use of arches, pediments, mullions, and other treatments are permitted.
- (3) Top of buildings.
 - a. All rooftop mechanical equipment on buildings over thirty-five feet (35') in height shall be screened from above or below (based on the type of mechanical equipment utilized) by integrating it into the building and roof design to the maximum extent feasible.

- (4) Building entrances and orientation. At least one or more operable pedestrian entrances per building shall be provided, unless if all three of the circumstances below exist, only two (2) entrances shall be required:
- a. When a lot abuts a public street right-of-way, at least one entrance shall be provided along all building facade(s) fronting all public rights-of-way.
 - b. When a lot abuts an existing or proposed public open space system, multi-use trail, or greenway, entrance(s) shall be provided on the building façade closest to the public open space, multi-use trail, or greenway.
 - c. When abutting a sidewalk in the rail station area, an entrance(s) shall be provided on the building facade closest to the station area sidewalk.
- (5) Structured parking facilities.
- a. Structured parking facilities shall be designed to encourage and complement pedestrian-scale interest and activity. Such facilities shall be designed so that motorized vehicles parking on inside levels of the facility are screened from the street, the commuter rail station, and/or from residentially zoned or used property. Decorative elements such as grillwork or louvers may be utilized to accomplish this requirement.
 - b. Openings at the street level are limited to vehicular entrances, pedestrian access to the structure, and ventilation openings. All such openings shall be decorative and be an integral part of the overall building design.
- (6) Canopies.
- a. Canopies, awnings, cornices and similar architectural accents are permitted on exterior building walls. Such features shall be constructed of rigid or flexible material design to complement the streetscape of the area. Any such feature may extend from the building no more than four feet (4'). In no instance shall such feature extend over or interfere with the growth or maintenance of any required tree plantings. Minimum overhead clearance shall be eight feet (8'). Ground supports for these features are not permitted in the minimum setback, sidewalk or public right-of-way.
- (7) Signs, banners, flags and pennants.
- Signage shall be designed to be integral with the architectural character of the building to which it belongs. Specifically, the scale, proportion and color shall be appropriate to the building to which the sign is attached. Elements to be considered include architectural appearance, sign size, type of illumination, sign motion, sign setback, surface colors, and message. The architectural appearance of the sign shall not be so dissimilar to the existing signage on surrounding buildings as to cause impairment in property value or constitute a blighting influence.

Where signs, banners, flags and pennants for identification or decoration are provided, they shall conform to the following:

- a. Wall signs shall have a maximum of 150 total square feet or five percent (5%) of the building wall area occupied by the user, whichever is less. Wall signs may be increased by twenty (20) square feet per sign in lieu of a ground mounted or monument sign.
- b. Signs are permitted to project up to two feet (2') into the minimum setback as measured from the building. Under no circumstances shall a sign project more than four feet (4') from the back of the curb. A minimum overhead clearance of eight feet (8') from the sidewalk shall be maintained.
- c. Marquee signs are permitted.
- d. Ground mounted or monument signs are permitted as follows:
 1. Signs shall not exceed ten feet (10') in height and forty (40) square feet in area.
 2. Signs shall be located behind the right-of-way and out of any sight distance triangle.
 3. Signs shall be setback five feet (5') from any property line.
- e. No freestanding pole signs shall be permitted.
- f. No off-premise signs shall be permitted.
- g. The following sections shall also apply to signs within the TOD districts: Section 74-446 General Regulations; Section 74.447 Temporary Signs; and Sections 74.445 Exempt Signs. If provisions of this Section are in conflict with other standards in this chapter, the most restrictive shall apply. Residential signs shall be regulated by the provisions of Chapter 74, Article III related to residential signs.

(n) *Administrative Approval.*

To offer some degree of flexibility, the Planning Director has the authority to administratively alter any of the development and urban design standards by five percent (5%) in a TOD District. If administrative approval is required for parking or an item normally approved by the Planning Commission and City Council, the Planning Director or designee shall only grant approval after consultation with other city staff (city manager, public services, building inspections, fire chief, etc.).

On matters that do not involve quantitative measurements, the Planning Director or designee may also make minor alterations if he/she determines that such changes would be an acceptable design approach to development and would be in keeping with the general intent of TOD. Any such approval shall meet the following criteria:

- (1) Incorporates existing buildings, trees, topographic features, or other existing elements consistent with the TOD intent; and
 - (2) Provides urban open space, seating, fountains, accent landscaping or other similar urban pedestrian amenities consistent with the intent of the TOD.
- (o) *Preliminary Review.*

It is strongly recommended that anyone planning to develop or redevelop property in a TOD District meet with the Planning Department staff (1) during the conceptual design process in order that the staff may offer input into meeting the TOD design objectives and (2) during the design development stage to ensure that the plans meet the minimum TOD District standards.

- (p) *Enforceability.*

Violation. Unless expressly provided otherwise, it shall be a misdemeanor for any person or entity to violate any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of any such provision, or any other order lawfully enforcing the City Code or this Section. The term “misdemeanor” is defined in Minnesota Statutes Section 609.02, subd. 3, as amended. In addition to prosecuting a violation as a misdemeanor, the City may separately, or in conjunction with the misdemeanor prosecution, bring an action for specific performance to enforce any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of such provision, or any order lawfully enforcing the City Code, including this Section.

Section 74-267.

South Ferry Riverfront District (SFRD)

- (a) *Purpose and intent of the District.* The purpose of the standards for the South Ferry Riverfront District (SFRD) is to promote harmonious development, redevelopment and rehabilitation of structures in this district. It is intended that the standards will:
- (1) Protect the riparian areas and promote recreational use of this stretch of the Rum River.
 - (2) Encourage the redevelopment of some areas adjacent to the river and to strengthen connections to and from the remainder of the City.
 - (3) Encourage the transformation over time of certain areas to open space and mixed use development.
 - (4) Improve the quality of development along the higher-volume South Ferry Street, which serves as a gateway into the City.
 - (5) Encourage biking and walking.
- (b) *Definitions.* The definitions in PART 6106.0050 DEFINITIONS as amended are hereby adopted by reference. For the purposes of this Section, the following words and phrases shall have the meanings ascribed by Section 74-2 of the City Code. Words not defined shall have the planning meaning generally ascribed to them.

(c) *Subareas and Intended Character.*

The SFRD has been divided into four subareas, each of which are intended to achieve the general character described below:

(1) Subarea 1 – (North Mixed Use)

This area is intended to transition to a mix of high-density housing and a small area of commercial, with the Main Street frontage accommodating low-traffic commercial use and the Ferry Street frontage as high-density residential with gardens and walking paths along the river frontage.

(2) Subarea 2 – (Open Space – Low Density Residential)

This area is intended to transition to a mix of open space and low-density residential and/or commercial (restaurant, office, bed and breakfast) use of the existing historic property. The open space will provide prominent views of the river to enhance the gateway nature of South Ferry Street.

(3) Subarea 3 – (Low Density Residential)

This area is intended to preserve the low-density residential that exists along the corridor. Existing and future single family homes along the river in this area will complement the riverfront lots available to the community.

(4) Subarea 4 – (South Mixed Use)

This area is intended to transition to a mixed use area to include public and private recreation, lodging, restaurant(s), service retail, and high density residential. This area includes Peninsula Point Park which can accommodate an excursion boat service, docks, canoe launching and other additional recreational uses.

(d) *Permitted Uses*

Different uses are permitted in each subarea as shown in the following table. Abbreviations used in the table shall have the following meanings: “P” indicates that a use is permitted by right; “C” indicates a use that is permitted upon obtaining a conditional use permit; and “I” indicates a use that is permitted upon obtaining an interim use permit. A blank cell indicates that the listed use is not allowed in the respective subarea. Any uses not specifically listed as permitted, conditionally permitted, or permitted with an interim use permit, or as allowed elsewhere in the City Code, shall be considered prohibited.

Use Category	Subareas
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CITY OF ANOKA
 CITY CODOE
 CHAPTER 74; ARTICLE V; DIVISION 5

Specific Use	North Mixed Use 1	Open Space – Low Density Residential 2	Low Density Residential 3	South Mixed Use 4
RESIDENTIAL				
Single family detached		P	P	
Multiple dwelling	C			C
State licensed residential facility or housing with services under M.S. 144 D (6 or fewer)*		P	P	
A state licensed daycare serving 12 or fewer*		P	P	
A group family daycare facility licensed under Mn Rules 9502.0315 to 9502.445 to serve 14 or fewer*		P	P	
A state licensed residential facility serving from 7 to 16*	C			C
A state licensed daycare facility serving 13 to 16*	C			C
PUBLIC AND CIVIC				
Open Space	P	P	P	P
Parks/Recreation Facility	P	P	P	P
Utilities and public service	P	P	P	P
Cultural exhibits, museum		P		
Marinas				C

Use Category Specific Use	Subareas			
	North Mixed Use 1	Open Space – Low Density Residential 2	Low Density Residential 3	South Mixed Use 4
COMMERCIAL				
Sit down restaurant		P		C
Brewpub				P
<small>*Uses permitted by Minn. Stats. § 462.357</small>				
Bed and Breakfast		C	C	C
Hotel/Motel				C
Office, administrative or professional				C
Service retail	P			P
Docks		C		C
Parking				P
OTHER				
Event Center (Conference Center)		C		C

(e) *Accessory Uses.* The following accessory uses are permitted in the South Ferry Riverfront District:

- (1) Transit facilities
- (2) Information kiosks
- (3) Accessory uses typical to residential use of property
- (4) Accessory uses typical to commercial use of property, if approved with the site plan approval.

(f) *Bulk and Dimensional Standards.* The following table includes the bulk and dimensional standards for each subarea in the SFRD. :

	Subarea 1	Subarea 2	Subarea 3	Subarea 4

*CITY OF ANOKA
CITY CODOE
CHAPTER 74; ARTICLE V; DIVISION 5*

Lot size – residential single family		15,000 sq. ft	15,000 sq. ft.	
Lot width – residential single family		75'	75'	
Building height	40'	35'	35'	35'
Building Coverage	50%			40%
Impervious Surface	85%	30%	30%	85%
Residential Setbacks – single family		Front 25' Side 10' Rear 25' Riparian 100'	Front 25' Side 10' Rear 25' Riparian 100'	
Residential Setbacks – multiple family	Front 15' min, 35' max Side 10' Rear 20' Riparian 75'			Front 15' min, 35' max Side 10' Rear 20' Riparian 100'
Commercial/Mixed use setbacks	Front 15' min, 35' max Side 10' Rear 20' Riparian 75'	Front 15' min, 35' max Side 10' Rear 20' Riparian 100'	Front 15' min, 35' max Side 10' Rear 20' Riparian 100'	Front 15' min, 35' max Side 10' Rear 20' Riparian 100'
Parking setbacks – residential – single family		5' Riparian 50'	5' Riparian 50'	
Parking setbacks – multi-family residential	10' Riparian 50'			10' Riparian 50'
Parking setbacks –	Front (Ferry)	Front (Ferry)	Front (Ferry)	Front (Ferry)

commercial /mixed use	Street) 15' Side 5' Rear 5' Riparian 50'			
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(g) *Architectural Standards.*

- (1) Design Elements for Commercial and Mixed Use Buildings.
 - a. New buildings and structures, additions and renovations must be constructed of durable materials.
 - b. The primary exterior opaque materials on each elevation of a building, except for the service side, must be brick, stone, decorative masonry or similar materials or a combination thereof.
 - c. No more than twenty-five percent (25%) of the building exterior opaque materials on each elevation, except for the service side of the building, shall be comprised of the following accent materials:
 1. Cast stone
 2. Wood shingles (cedar shingles 6 inch maximum exposure) for trim
 3. Tongue and groove paneling (cedar or redwood 6 inch width, no diagonal siding).
 4. Copper (untreated)
 5. Stucco
 6. Cement board
 7. Glass (does not include windows)
 8. Dark anodized aluminum
 9. Materials that are similar in character to those listed above.
 - d. The following materials are not allowed as exterior opaque materials:
 1. Painted or unpainted concrete block
 2. Aluminum, vinyl or fiberglass siding or roofing materials
 3. Precast concrete panels
 4. Painting of previously unpainted brick
 5. Wooden exteriors
 - e. In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following:
 1. An intermediate cornice line
 2. A difference in building materials or detailing
 3. An offset in the façade

4. An awning, trellis, loggia or arcade
 5. Special window lintels
 6. Brick/stone corbels
- f. LEED (Leadership in Energy and Environmental Design) Standards. The City encourages the use of sustainable building materials and construction techniques in SFRD projects through programs such as the US Green Building's Council's LEED program.
- g. Alternative Designs or Materials. To encourage creativity, imagination, innovation, and variety in architectural design, the Planning Commission may recommend modifications of the requirements of this Section and the City Council may approve such modifications upon determining that the proposed architectural design or exterior facade material(s) meets all of the following conditions:
1. The proposed design or material is consistent with the purposes of this section.
 2. The proposed design or material would enhance the architectural appearance of the building, and would be equal or superior to designs or materials permitted by this section.

- (2) Design Elements for Single Family and Multi-family.
- a. At least 75% of the opaque materials of the front façade must consist of two of the following materials*:
1. Brick, stone (if 75% of the façade is brick or stone a second material is not required).
 2. Wood
 3. Cement board lap siding with accent shakes.
 4. Vinyl or Aluminum Siding (no more than 30% of the front façade shall consist of vinyl or aluminum siding).

* Other additional materials may be used only if 75% of the façade consists of materials listed above.

- b. A minimum of eleven (11) design features listed below must be incorporated into the design of each house unless otherwise specified in other parts of this section, as follows:

At least four (4) design features from the following list must be used in construction of a residential building:

1. Change in elevation of roof ridge.
2. Change in direction of roof ridge.
3. Roof with dormers (minimum of two (2) dormers, unless Eyebrow Dormer).
4. Bay or Oriel Window.
5. Porch or Veranda (covering a minimum of 40% of the overall width of the front façade and a minimum of eight (8) feet in depth).

6. Portico or Shed Roof Accent over the front entry (minimum covered area of 4' by 10').
7. Façade modulation (other than items listed herein; minimum of 12 inches in depth)
8. Roof overhangs (minimum 12 inches on front, side and rear elevations).
9. Roof pitch of 8-12 or 12-12.

c. At least three (3) design features from the following list must be used in construction of a residential building:

1. Hip roof.
2. Gable accent.
3. Side-by-side windows (within 8"; minimum of 50% of windows in each story)
4. Door sidelight(s)
5. Door transom.
6. Window transom.
7. Side garage bump-out (minimum size 3' by 10', exclusive of garage area).

d. The remaining four (4) items may be selected from the following list or from the items listed above.

1. Decorative door architrave.
2. Decorative window architrave.
3. Decorative window cornice.
4. Decorative trim molding (including, at a minimum, fascia, soffit & corner trim).
5. Architectural elements (e.g. quoins, pilasters, soldier courses, friezes, cornices, dentils, etc.)
6. Pent roof or pent roof return.
7. Accent siding.
8. Shutters (all front, rear and side elevations).
9. Window grids (permanent).
10. Decorative front door (minimum 25% glazing).
11. Decorative gable vents.
12. Keystone (over all first floor, front façade windows and doors).

In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following:

1. An intermediate cornice line
2. A difference in building materials or detailing
3. An offset in the façade
4. An awning, trellis, loggia or arcade
5. Special window lintels
6. Brick/stone corbels

f. LEED (Leadership in Energy and Environmental Design) Standards. The City encourages the use of sustainable building materials and construction techniques in SFRD projects through programs such as the US Green Building's Council's LEED program.

- g. Alternative Designs or Materials. To encourage creativity, imagination, innovation, and variety in architectural design, the Planning Commission may recommend modifications of the requirements of this Section and the City Council may approve such modifications upon determining that the proposed architectural design or exterior facade material(s) meets all of the following conditions:
1. The proposed design or material is consistent with the purposes of this section.
 2. The proposed design or material would enhance the architectural appearance of the building, and would be equal or superior to designs or materials permitted by this section.

(3) Exterior Lighting.

Exterior lighting shall be used to provide illumination for the security and safety of entry drives, parking, service and loading areas, pathways, courtyards and plazas, without intruding on adjacent properties and shall comply with the following standards:

- a. Poles and structures shall be architecturally compatible with structures and lighting on-site and on adjacent properties.
- b. Security lighting shall be adequate for visibility, but not overly bright.
- c. Metal halide lighting shall be used with a concealed light source of the “cut-off” variety to prevent glare and “light trespass” onto adjacent buildings and lots.
- d. Poles within landscaped areas and plazas shall have a maximum height of twenty feet (20’), measured from grade, and shall be consistent with city standards.
- e. Poles in parking lots shall have a maximum height of 24 feet (24’) measured from finished grade.
- f. Lighting fixtures mounted directly on structures shall be permitted when used to enhance specific architectural elements or to help establish scale or provide visual interest.
- g. “Wall paks” shall be permitted only in loading and service areas, shall be down-lit and shielded from view.
- h. Shielded illumination of fixtures shall be permitted to light building mounted signage, building facades, or pedestrian arcades if they are integrated into a building’s architectural design.
- i. Lighting should highlight entrances, art, terraces and special landscape features.

j. Separate pedestrian scale lighting or other low level fixtures, such as bollards, shall be incorporated for all pedestrian ways through parking lots and drop-off areas at entrances to buildings.

k. All primary walkways, steps or ramps along pedestrian routes shall be illuminated.

(4) Light intensity.

- a. A photometric lighting plan is required for all proposed commercial developments to ensure that adequate and appropriate light levels are provided for each site condition.
- b. Lighting shall not exceed 0.1 foot candle at residential property lines or 0.5 foot candle on non-residential property lines measured on a vertical plane.
- c. The following minimum levels of illuminations must be maintained for each of the specific locations.*

Building entrances	5.0 foot candles
Sidewalks	2.0 foot candles
Bikeways	1.0 foot candles
Courts/Plazas/Terraces	1.5 foot candles
Ramps	5.0 foot candles
Stairways	5.0 foot candles
Underpasses	5.0 foot candles
Waiting Areas	1.0 foot candles
Parking lots	1.0 foot candles
Roadways	1.5 foot candles

* Values given are in minimum average maintained horizontal foot candles which are measured at the average point of illumination between brightest and darkest areas, 4' – 5' above the ground surface. (Source: IES Lighting Handbook – 4th Edition)

d. Site lighting should provide consistent levels of illumination, avoiding pockets of very high or low levels of illumination.

(h) *Signs.* Signage shall be designed to be integral with the architectural character of the building to which they belong. Specifically, the scale, proportion and color shall be appropriate to the building to which the sign is attached. Elements to be considered include architectural appearance, sign size, type of illumination, sign motion, sign setback, surface colors, and message. The architectural appearance of the sign shall not be so dissimilar to the existing signage on surrounding buildings as to cause impairment in property value or constitute a blighting influence.

The following sections shall also apply to signs within the South Ferry Riverfront District (SFRD): Section 74.446 General Regulations; Section 74.447 Temporary Signs; and Section 74.445 Exempt Signs. If provisions of this section are in conflict with other standards in this chapter, the most restrictive shall apply. Residential signs shall be regulated by the provisions of Chapter 74, Article III related to residential signs.

- (1) Business signs and nameplate signs are permitted, subject to the following regulations:
 - a. The total surface area of all business signs on a lot shall not exceed four (4) square feet per linear foot of lot frontage. Business nameplates shall not exceed the sum of three square feet for each lineal foot of lot frontage.
 - b. In the case of corner lots, the shortest length of all sides of the lot with frontage shall be used to calculate the permitted total surface area.
 - c. No single business sign surface shall exceed 200 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 200 square feet.
 - d. Pylon signs are prohibited.
 - e. Monument signs are permitted. No monument sign or any part thereof may project higher than ten feet (10') above average grade at the building line. All portions of the sign must be set back a minimum of five feet (5') from the property line. Monument signs may not exceed forty (40) square feet and shall be included in the total calculation for site signage.
 - f. No freestanding sign shall be permitted within the sight triangle.
 - g. No rooftop signs shall be permitted.
 - h. Integral roof signs are permitted.
 - i. Sandwich board signs are prohibited.
 - j. Consistently changing, flashing, moving, rotating, traveling, or scrolling electronic variable signs are prohibited.
 - (2) Design details. Signs cannot block or obliterate design details, windows, or cornices of the building upon which they are placed.
- (i) *Utility Areas, Mechanical Equipment and Screening*
- (1) Design. Utility areas, mechanical equipment and screening must be designed so they do not detract from the aesthetic appeal of the district.
 - (2) Materials and Screening. All exterior trash, storage areas, service yards, loading areas, transformers, heating and air conditioning units must be screened and must use the materials, colors and/or style of the primary front facade materials. Trash collection areas shall be screened from public rights-of-way and adjacent uses through the use of a six-foot masonry wall enclosure and gate. Trash enclosures shall be compatible with the architectural character of the building they serve and shall incorporate similar materials and colors.

- (3) Roof Equipment. All mechanical equipment on the ground or roof, such as heating and air conditioning units and transformers, shall be screened on all sides or placed so as not to be visible from public streets. Such screening shall be compatible with the building. Camouflaging heating and air conditioning units is an acceptable method of screening and the intent of the screening is to distract the view of these areas, not to provide total screening.
 - (4) Outdoor merchandise displays. Outdoor merchandise displays must be placed against the building or within the landscaped area between the sidewalk and the street. Outdoor merchandise displays shall be displayed only during business hours. No outdoor business shall be located where it obstructs the line of sight of passing motorists.
 - (5) Open storage. Open storage of material, merchandise offered at wholesale items for salvage or disposal, or items used in the operation of a business, is prohibited.
- (j) *Vegetation.* Within the shore impact zones, the vegetation must be managed as provided below:
- (1) Existing vegetation in a natural state shall be maintained;
 - (2) Restoration of vegetation to a natural state is encouraged;
 - (3) Limited cutting, trimming, or clearing of trees, shrubs, understory, and groundcover vegetation is allowed for:
 - a. The minimum necessary for development as permitted by City Ordinance, County and State law;
 - b. Docks, slips, mooring facilities, marina or other similar recreational use;
 - c. The removal of trees, limbs, or branches that are dead, dying, diseased, or infested, which removal is necessary to prevent spread of disease or infestation or to address a safety hazard as determined by a representative designated by the local government;
 - d. The removal of invasive, nonnative plants as determined necessary by a representative designated by the local government;
 - e. Woodland or habitat management and restoration activities sponsored and approved by a resource agency or the city;
 - (4) In areas cleared of vegetation, vegetation must be reestablished either by allowing regeneration naturally or with plantings subject to a restoration plan approved by a resource agency or the city.
- (k) *Parking Requirements.* Parking shall be as required under Chapter 74, Article IX, Division 2.

- (1) In instances where parking areas abut the street, the parking lot edge must be delineated with landscaping, architectural fencing or other decorative features.
- (1) *Approval Process.*
 - (1) Site Plan Procedures. All development proposals under Section 74.265 (d) (1) shall be reviewed under the site plan approval process as set forth in this subsection.
 - (2) Application. Application for a site plan review shall be made to the Planning Department on forms provided by the City and shall be accompanied by the following:
 - a. A survey or plat of the property;
 - b. Evidence of ownership or an interest in the property;
 - c. The fee specified in the City's fee schedule;
 - d. Information regarding project phasing and timing;
 - e. Complete development plans as specified under Section 74.2 of the City Code, signed by a registered architect, civil engineer, landscape architect or other appropriate design professional, as required by the State building code; and
 - f. Architectural plans (for new construction), showing the following:
 1. Colored elevations of all sides of the building
 2. Type, color and samples of exterior building materials
 3. Typical floor plans
 4. Dimensions of all structures
 5. The location of exterior trash storage areas and of exterior electrical, heating, ventilation, and air conditioning equipment
 6. Utility plans including water, sanitary sewer and storm sewer
 7. A plan showing landscaping, lighting and signs
 8. Illustrations that show adjacent building elevations to show the scale of adjacent buildings and landscaping
 9. Such other information as may be required by the City to process the application.
- (3) Public hearing. Upon receipt of a completed application, a date shall be set for a public hearing before the Planning Commission. The hearing will be held no less than ten (10) days after mailed notice is sent to the owners of the property located wholly or partially within 350 feet of the site. The Planning Commission shall submit its recommendation to the City Council. Following appropriate review, the Council shall make a decision regarding the application.

- (4) Other Approvals. In cases where there is uncertainty or disagreement about compliance with the standards of this section, the Planning Director or designee may refer development approvals, as listed in Section 74.265 (d) 2 through 6, to the Planning Commission and City Council to determine that the proposal meets the standards of this Section.
- (m) *Enforceability.* Unless expressly provided otherwise, it shall be a misdemeanor for any person or entity to violate any provision of the City Code, including this Section, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Section. The term "misdemeanor" is defined in Minnesota Statutes Section 609.02, subd. 3, as amended. In addition to prosecuting a violation as a misdemeanor, the City may separately, or in conjunction with the misdemeanor prosecution, bring an action for specific performance to enforce any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of such provision, or any order lawfully enforcing the City Code, including this Section.

Sections 74-268 thru 74-269. Reserved.

CHAPTER 74. ZONING

ARTICLE V. District Regulations

DIVISION 6. Overlay Districts

Section 74-270 Sensitive Development District

- (a) Purpose and Intent. The purpose and intent of the Sensitive Development District is to create residential development that is designed to prevent and mitigate irreversible damage to natural resources and to preserve and enhance their values to the public. Development shall be regulated to minimize the risk of environmental damage to these areas. This is accomplished through density control, lot size, public land dedication and tree preservation. Residential development in these areas should encourage creativity, variety and use of quality materials. River use and recreation on and along the Rum River is encouraged as the Rum River is viewed as a recreational asset to the City.
- (b) Establishment of District Boundaries. Boundaries for the Sensitive Development District are as shown on the Official Zoning Map.
- (c) Applicability. In the event other City ordinances or State Statutes address the same topics covered in this Section, the more restrictive language shall apply.
- (d) Uses. Permitted, interim, accessory, and prohibited uses in this district shall be governed by the R-1, Single Family District with the following exceptions:
 - (1) Conditional uses in the R-1 district shall be prohibited in the Sensitive Development District.
 - (2) Townhouse use is permitted east of the westerly line of the southeast corner of the northwest quarter of Section 31, Township 32, Range 24.
- (e) Lot requirements. The lot area requirements for the Sensitive Development District are as follows:
 - (1) Every lot within the Rum River Wild and Scenic River District on which a single-family dwelling is to be erected shall not be less than 15,000 square feet. Every lot not within the Rum River Wild and Scenic River District on which a single-family dwelling is to be erected shall not be less than 12,500 square feet, except for lots east of the easterly line of the west half of the southwest quarter of the southwest quarter of Section 30, Township 32, Range 24 may be a minimum of 10,000 square feet.
 - (2) Townhouse lot area regulations: The minimum lot area per dwelling unit shall not be less than 4,500 square feet.
 - (3) Every lot on which a single-family dwelling is to be erected shall not be less than 75 feet in width, nor less than 120 feet in depth. Lots on cul-de-sac streets shall have a minimum frontage of 50 feet on the right-of-way line.

- (4) In no case shall the impervious surface coverage of a non-riparian single family lot exceed 35 percent of the area of the lot. Lots within the Rum River Wild and Scenic River District shall not exceed a 25 percent impervious surface coverage. Impervious surface coverage for townhomes shall not exceed 50 percent of the area of the lot.
- (5) Lots within the Rum River Wild and Scenic River District shall be governed by requirements set forth in the Minnesota Department of Natural Resources Rum River Wild and Scenic Regulations and the City of Anoka Rum River Protection ordinance.
- (f) Density. No more than 45 single family lots may be created west of the westerly line of the southeast corner of the northwest quarter of Section 31, Township 32, Range 24. No more than 60 townhouse lots or 35 single family lots may be created east of the westerly line of the southeast corner of the northwest quarter of Section 31, Township 32, Range 24. Residential densities in all other Sensitive Development District areas shall be governed by lot size requirements listed in this Section.
- (g) Front, side, and rear yard requirements. Front, side, and rear yard requirements shall be governed by the R-1, Single Family District standards for single family use and by R-3, Low Density Multiple Family District standards for townhomes.
- (h) Maximum building height. The maximum building height shall be governed by the R-1, Single Family District standards for single family use and by R-3, Low Density Multiple Family District standards for townhomes.
- (i) Special regulations. Special regulations in the Sensitive Development District shall be as follows:
 - (1) Riparian lots may only be used for public purpose. Private docks may be located on public lands provided agreements are in place to allow such docks. Any installation of docks must meet regulations set forth by the Minnesota Department of Natural Resources and the City of Anoka. Any other public uses of land shall follow regulations set forth in the City of Anoka Rum River Protection ordinance.
 - (2) Any lot line of non-riparian lots west of the westerly line of the southeast corner of the northwest quarter of Section 31, Township 32, Range 24 must be setback a minimum of 220 feet from the property line of the river.
 - (3) Planned Unit Developments (PUD's) are not permitted within the Sensitive Development Overlay District.
 - (4) Private lots may not be located upon any existing public easements used for trail purposes.
- (j) Tree Preservation/Reforestation.
 - (1) Any tree removal must meet regulations set forth in other Sections of this Code including, but not limited to, the Rum River Protection and Tree Preservation sections.

- (2) Each single family lot shall be required to have a minimum of four trees on the lot. Trees shall be a minimum of 2 1/2 inches in diameter if deciduous, or six (6) feet in height if coniferous, measured at 4.5 feet above ground. Trees that exist on a newly subdivided lot may be used towards this calculation.
 - (3) Each single family lot shall be required to have a total of ten shrubs located on the lot, four of which shall be located in the required front yard.
- (k) Architectural control.
- (1) No more than one single-family dwelling with the same exterior configuration shall be erected on any five abutting, contiguous, successive or adjoining lots starting at any point, leading in any direction or around any corner.
 - (2) Garages.
 - a. Side or Rear Entry Garages. For single family dwellings, the primary garage entry may face either the rear or side property line, but shall not face the interior of the lot. If this option is chosen, only seven (7) design features in part (4) below shall be required. Driveways leading to the garage shall be no greater than 12 feet wide starting at the front property line until a point eight (8) feet in front of the front line of the garage.
 - b. Front Facing Garages. For single family dwellings, if the primary garage entry faces the right-of-way, the following design features shall be required:
 - 1. The garage must be stepped back 5 feet from the front line of the house for property that is zoned Sensitive Development and is located south of County Road 116.
 - 2. Windows on the garage door.
 - 3. Decorative paneling. Flat front garage doors are prohibited.
 - 4. The color of the garage door must be similar to that of the house.
 - c. For townhouses, the primary garage entry door shall be located at the rear of the unit.
 - (3) Design Elements for Single Family and Townhouses.
 - a. At least 75% of the opaque materials of the front façade must consist of two of the following materials*:
 - 1. Brick, stone (if 75% of the façade is brick or stone a second material is not required).
 - 2. Wood
 - 3. Cement board lap siding with accent shingles.

4. Vinyl or Aluminum Siding (no more than 30% of the front façade shall consist of vinyl or aluminum siding).

* Other additional materials may be used only if 75% of the façade consists of materials listed above.

A minimum of eleven (11) design features listed below must be incorporated into the design of each house unless otherwise specified in other parts of this section.

- b. At least four (4) design features from the following list must be used in construction of a residential building:

1. Change in elevation of roof ridge.
2. Change in direction of roof ridge.
3. Roof with dormers (minimum of two (2) dormers, unless Eyebrow Dormer).
4. Bay or Oriel Window.
5. Porch or Veranda (covering a minimum of 40% of the overall width of the front façade and a minimum of eight (8) feet in depth).
6. Portico or Shed Roof Accent over the front entry (minimum covered area of 4' by 10').
7. Façade modulation (other than items listed herein; minimum of 12 inches in depth)
8. Roof overhangs (minimum 12 inches on front, side and rear elevations).
9. Roof pitch of 8-12 or 12-12.

- c. At least three (3) design features from the following list must be used in construction of a residential building:

1. Hip roof.
2. Gable accent.
3. Side-by-side windows (within 8"; minimum of 50% of windows in each story)
4. Door sidelight(s)
5. Door transom.
6. Window transom.
7. Side garage bump-out (minimum size 3' by 10', exclusive of garage area).

- d. The remaining four (4) items may be selected from the following list or from the items listed above.

1. Decorative door architrave.
2. Decorative window architrave.
3. Decorative window cornice,
4. Decorative trim molding (including, at a minimum, fascia, soffit & corner trim).
5. Architectural elements (e.g. quoins, pilasters, soldier courses, friezes, cornices, dentils, etc.
6. Pent roof or pent roof return.
7. Accent siding.
8. Shutters (all front, rear and side elevations).

9. Window grids (permanent).
10. Decorative front door (minimum 25% glazing).
11. Decorative gable vents.
12. Keystone (over all first floor, front façade windows and doors).

- (l) Enforceability. Violation. Unless expressly provided otherwise, it shall be a misdemeanor for any person or entity to violate any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of any such provision, or any other order lawfully enforcing the City Code or this Section. The term "misdemeanor" is defined in Minnesota Statutes Section 609.02, subd. 3, as amended. In addition to seeking prosecution of a violation as a misdemeanor, the City may separately, or in conjunction with the misdemeanor prosecution, bring an action for specific performance to enforce any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of such provision, or any order lawfully enforcing the City Code, including this Section.

Sections 74-271 through 74-275. Reserved.

CHAPTER 74. ZONING

ARTICLE V. District Regulations

DIVISION 7. Institutional Districts

Section 74-276 Anoka County Rum River Human Services (ACRRHS) District

- (a) Purpose and Intent. The purpose and intent of the Anoka County Rum River Human Services District is to provide a basis for current and future space needs planning within the District.
- (b) Application. This district is designed as a special purpose district. The standards contained in this Article will apply only to the Anoka County Rum River Services District, generally described as the area north of an extension of existing Grant Street, west of the 7th Avenue, east of the Rum River, and south of the Anoka High School, and specifically as shown on the official zoning map for the City of Anoka.
- (c) Permitted Uses. The following uses shall be permitted in the ACRRHS District only if said uses are at the direction or under the control of the State of Minnesota or the County of Anoka:
 - (1) Residential treatment facilities for chemical dependency, corrections, mental health, and those in transition from treatment to independent living.
 - (2) Residential facilities for short-term housing.
 - (3) Administration and program offices/facilities.
 - (4) Cafeterias/food service.
 - (5) Program space for distribution of household goods.
- (d) Accessory Uses. The following uses shall be permitted as accessory uses in the ACRRHS District:
 - (1) Heating facilities/power plant.
 - (2) Laundry.
 - (3) Maintenance facilities.
 - (4) Storage structures.
 - (5) Transit shelters.
 - (6) Outdoor recreation areas.
 - (7) Trails.
 - (8) Pavilions.

- (e) Setbacks. The following setback regulations shall apply in the ACRRHS District:
 - (1) Structures, whether principal buildings or accessory structures, shall be setback a minimum of twenty-five (25) feet from neighboring properties.
 - (2) Parking shall be a minimum of fifteen (15) feet from neighboring properties.
 - (3) The distance between structures within the campus shall be a minimum of 15 feet or as required by the State Building Code, whichever is greater.
- (f) Height.
 - (1) Existing structures shall not be increased in height. Additions to existing structures shall be of the same or lesser height as the existing structure.
 - (2) New structures shall be limited to a maximum of four stories unless a conditional use permit to increase the height is obtained from the City.
- (g) Site plan required. Site plan approval is required for construction of principal buildings and accessory structures in the ACRRHS District. Information shall be submitted for site plan review according to Chapter 74, Article II, Section 74-38, as amended. In addition, the following information must be submitted:
 - (1) Applicable information, such as number of beds, number of employees on a major shift, seating capacities, etc. to determine required parking spaces and traffic circulation impacts.
- (h) Exterior Materials on Existing Buildings. All accessory structures and subsequent additions to a principal building existing at the time of adoption of this ordinance shall:
 - (1) Be constructed of the same exterior materials or materials designed to simulate the materials on the principal building;
 - (2) Shall be of the same general appearance; and
 - (3) Shall be of the same architectural design.
- (i) Building permits. Building permits shall be obtained as required by the State Building Code.
- (j) Overlay district standards. The following environmental overlay district standards shall apply where appropriate:
 - (1) Shoreland Regulations
 - (2) Rum River Wild and Scenic Regulations
 - (3) Floodplain Regulations

Where overlay district standards are in conflict, the most restrictive standard shall apply.

- (k) Parking and loading. Unless otherwise regulated by this Article, parking and loading shall be regulated by Chapter 74, Article IX, Division 2 of the City Code, as amended.
- (l) Impervious Surface. No more than 85% of a lot may be covered by impervious surface, and no more than 50% of a lot may be covered by buildings.
- (m) Enforceability. Violation. Unless expressly provided otherwise, it shall be a misdemeanor for any person or entity to violate any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of any such provision, or any other order lawfully enforcing the City Code or this Section. The term "misdemeanor" is defined in Minnesota Statutes Section 609.02, subd. 3, as amended. In addition to seeking prosecution of a violation as a misdemeanor, the City may separately, or in conjunction with the misdemeanor prosecution, bring an action for specific performance to enforce any provisions of the City Code, including this Section, any rule or regulation adopted in pursuance of such provision, or any order lawfully enforcing the City Code, including this Section.

Sections 74-277 through 74-280. Reserved.

CHAPTER 74. ZONING

ARTICLE VI. Mississippi River Control Corridor/Rum River Protection*

***State law references--**Shoreline development, Minn. Stats. § 103F.201 et seq.; municipal shore land management, Minn. Stats. § 103F.221; Minnesota Wild and Scenic Rivers Act, Minn. Stats. § 103F.301 et seq.

DIVISION 1. Generally.

Section 74-281. Findings and purpose.

- (a) The City Council finds that the Mississippi River Corridor within the metropolitan area and the City, and the Rum River Corridor within the City are unique and valuable local, regional, state and national resources. These rivers are essential elements in the local, regional, state and national transportation, sewer and water, and recreational systems and serve important biological and ecological functions. The prevention and mitigation of irreversible damage to these resources and the preservation and enhancement of their natural, aesthetic, cultural, and historic values is in the furtherance of the health, safety and general welfare of the City.
- (b) The Council further finds that the critical area district and the Rum River Management District are characterized by certain soil types, slopes, and water levels which, without proper corrective action, are unsuitable for development. The preservation of trees and woodlands, marshes, swamps, wetlands, drainage ways, and watercourses, within these districts serves important ecological, recreational and aesthetic functions to the benefit of existing and future residences of the municipality and therefore is in furtherance of the health, safety, and general welfare of the City.
- (c) It is the purpose and intent of this article to prevent and mitigate irreversible damage to these natural resources and to preserve and enhance their values to the public. Development shall be so regulated so as to minimize the risk of environmental damage to these areas. By doing so, private home owners and governmental units are protected from incurring high maintenance and capital costs resulting from the necessity to correct the deficiencies encountered as a result of inappropriate or improper development.

Section 74-282. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Crown cover means the ratio between the amount of land shaded by the vertical projection of the branches and foliage area of standing trees to the total area of land, usually expressed as percentage.

Development means the construction, installation or alteration of any structure, the extraction, grading or filling, clearing or other alteration of terrestrial or aquatic vegetation, land or the course, current or cross section of any water body or watercourse or the division of land into two or more parcels.

Development permit means any building permit, zoning permit, plat approval, rezoning, certification, conditional or special use permit or variance.

Dimensional requirement means minimum and maximum setbacks, yard requirements and/or structure height or size restrictions established in this chapter for the various zoning districts.

Litter means slightly decomposed organic material on the floor of a woodland area.

Ordinary high water level means 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. For watercourses, the ordinary high water level shall be the operating elevation of the normal summer pool.

Restrictive soils means soils which have permeability rates of less than five minutes per inch; or in which bedrock is less than five feet below the ground surface; or in which the water table is permanently or seasonably less than five feet below the ground surface; or where the slope of the surface is greater than 12 percent.

Slope means the inclination of the natural surface of the land from the horizontal, usually measured in one of three ways: (i) as a ratio, the horizontal distance to the vertical distance; (ii) as a percentage, the vertical distance over the horizontal distance; (iii) by degrees, measured from the horizontal to the vertical.

Structure means anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures.

Tree means any woody plant that has at least one trunk with a diameter four feet above the ground of four inches or greater.

Utility line means all transmission or distribution systems of any public, semi-public, or private utility, including but not limited to electric lines, sewer lines, water lines, telephone lines, gas lines, oil pipe lines, and any other lines, pipes or cables.

Wetland means any low area permanently or seasonally covered with shallow water including marsh, swamp, bog, wet meadow, slough, or intermittent lake greater than one acre in size or floodplain and denoted on the City wetlands map.

Woodland means a group of trees at least one-half acre in area and with a crown cover of 50 percent or greater.

Section 74-283.

Establishment of district boundaries.

This article shall apply to all public and private lands in the following described districts:

- (a) The critical area overlay district which is the Mississippi River Corridor Critical Area as set forth and legally described in Minnesota State Executive Order No. 7919 as recorded in the State Register, Monday, March 12, 1979.
- (b) The Rum River Management Overlay District which is the Rum River Management Area as set forth and legally described in the Management Plan for the Rum River (6MCAR 1.2700-1.2720) and the Minnesota Wild and Scenic Rivers Act (Minn. Stats. § 103F.301 et seq.).

- (c) These districts shall be identified on the official zoning map referenced in Section 74-62.

Section 74-284.

Administration procedures.

Adoption and administrative procedure for this article shall comply with Minn. Reg. NR 81.

Section 74-285.

Substandard lots.

Lots of record in the office of the county register of deeds on March 29, 1981, which do not meet the requirements of NR33(c)(1)(aa) through (dd) may be allowed as building sites provided such use is permitted in the zoning district, the lot is in separate ownership from abutting lands, and sanitary and dimensional requirements of this chapter are complied with except that such lots which meet or exceed 60 percent or more of the lot width standards of these regulations may be considered as a separate parcel of land for the purposes of sale or development, if on-site sewage disposal systems can be installed so as to comply with these regulations.

Section 74-286.

Public areas.

All plans for public campgrounds, accesses (both trails and roads for boat launch facilities), and open space recreational uses within the Rum River Management Overlay District shall be submitted to the Minnesota Commissioner of Natural Resources for approval in compliance with MN. Reg. NR 79(b)(2) as amended by 6 MCAR 1.2720(A)(4)(3).

Section 74-287.

Development standards.

The following standards shall be met when any development is undertaken within the critical area overlay district or the Rum River Management Overlay District:

- (a) No filling, grading, dredging, excavation, or construction shall be allowed within any wetland area, nor on lands abutting, adjoining or affecting such areas if such activity upon those adjacent area incompatible with city policies expressed here and in other documents. Development is prohibited if it results in loss and damage to public and private improvements through inundation by flood waters and subsequent construction of storm sewers and other public projects, in the permanent destruction of natural resources, loss of water retention facilities, open space and wild life habitats or impairment of public and private water supplies. Wetland area may not be used in determining minimum area requirements for building sites or subdivision plats unless such development is in accordance with section 74-192 or unless they are dedicated to the public for such uses described in chapter 54, article III, division 2 of this Code.
- (b) A minimum amount of filling may be allowed when necessary, as determined by the zoning administrator, but in no case shall the total filling cause the natural flood storage capacity of the wetland to fall below the projected volume of runoff from the entire area wetland water shed generated by a ten year storm, nor shall the total filling cause the total natural nutrient stripping capacity of the wetland to fall below the nutrient production of the wetland water shed for its projected development. Only fill free of chemical pollutants and organic wastes may be used. Wetlands shall not be used for solid waste disposal.

- (c) Dredging may be allowed only when a boat channel is required for access to a navigable lake or river, or when it will not have a significant adverse effect upon the ecological and hydrological characteristics of the wetland. Dredging, when allowed, shall be located so as to maximize the activity in the areas of lowest vegetation density, shall not significantly change the water flow characteristics, and the size of the dredged area shall be limited to the absolute minimum for the permitted purpose.
- (d) Development shall be conducted so that the maximum number of trees is preserved by the clustering of structures in existing cleared areas and natural clearings, and the utilization of other site design techniques. Grading, contouring and paving shall be performed to minimize any detrimental effect on root zone aeration and stability of existing trees. Existing trees shall be provided with a watering area equal to at least one-half the crown cover. When trees are removed, the density of trees must be restored, utilizing nursery stocks of a minimum of 1½-inch diameter measured one foot above the ground, using species generally accepted as suitable for the purpose to that which existed before the development, provided that in no case need the density exceed ten trees per acre. Development shall not reduce the existing crown cover greater than 50 percent and shall be conducted in such a manner as to preserve the under story and litter. Trees used in reforestation or landscaping must be compatible with the local landscape and climatic conditions.
- (e) No on-site sewage disposal systems shall be allowed in restrictive soils. All of those permitted in other areas must meet requirements of 6 MCAR s. 4.8040 involving construction standards and inspection procedures.
- (f) No development shall be permitted on land having a slope, before alteration, in excess of 18 percent unless the applicant establishes that the following conditions are met:
 - (1) The foundation and underlying material of any structure, including roads, shall be adequate for slope condition and soil type.
 - (2) The applicant can demonstrate that development can be accomplished without increasing erosion, beyond that anticipated on a less than 18 percent slope, and that there is proper utilization of controls to reduce runoff to nondestructive levels.
 - (3) The proposed development presents no danger of falling rock, mud, uprooted trees, or other material to structures, recreational facilities, public lands, and public waters downhill.
 - (4) All structures other than buildings and roadway surfaces, but including retaining walls, shall meet the following design requirements:
 - a. Retaining walls or terrace contours shall not exceed five feet in height;
 - b. Construction shall be of natural stone or wood;
 - c. The use of gabions non-wood pilings, metal retaining walls is specifically prohibited unless the visible portion has the appearance of natural stone or wood;

- d. The minimum width of terraces shall be in the ratio of 2:1 to the height.
- (g) Steps shall be taken at all times to limit soil erosion. During any construction period steps shall be taken to ensure that soil loss will be less than five tons/acre/year, that immediately following any construction, soil loss will be less than two tons/acre/year and that within 15 days following construction, vegetation shall be planted to reduce the soil loss to less than one-half ton/acre/year.
- (h) Utility lines and any other associated facilities should be constructed along existing corridors or rights-of-way and make use of existing bridges or utility crossings. New corridors or rights-of-way shall be located so as to minimize potential environmental damage.

Sections 74-288--74-305.

Reserved.

CHAPTER 74. ZONING

ARTICLE VI. Mississippi River Control Corridor/Rum River Protection*

***State law references--**Shoreline development, Minn. Stats. § 103F.201 et seq.; municipal shore land management, Minn. Stats. § 103F.221; Minnesota Wild and Scenic Rivers Act, Minn. Stats. § 103F.301 et seq.

DIVISION 2. Environmental Permit.

Section 74-306. **Required.**

Any person undertaking development to or on any land within the overlay districts shall, prior to commencing the work, obtain an environmental permit (permit) from the City, except as hereinafter provided in this Article. An environmental permit must be obtained prior to construction of any utility line be it overhead or underground, and prior to construction, reconstruction, removal or abandonment of any road or railroad within these districts under standards of Minn. Reg. NR79(J).

Section 74-307. **Emergency and exemptions.**

When emergency work necessary to preserve life or property is required, the person performing it shall report all pertinent facts relating to the work to the City engineer and zoning administrator prior to the commencement of work. The zoning administrator shall review the facts and determine whether an emergency exists and shall authorize in writing the commencement of the emergency work. Within ten days following the commencement of that activity the person conducting the work shall apply for the issuance of an environmental permit and may be required to perform such work as is determined to be reasonably necessary to correct any impairment to the wetland occasioned by such emergency work. The removal of trees, seriously damaged by storms or other acts of God, or diseased trees, shall not be prohibited.

Section 74-308. **Applications.**

- (a) Environmental permits shall be issued by the zoning administrator except where noted in this Article. A written application for an environmental permit must be submitted to the zoning administrator. Such application shall include a site plan with adequate evidence to show that the proposed use will conform to the standards set forth in this Article. Five sets of clearly legible blue or black-lined copies or drawings and required information shall be submitted to the zoning administrator and shall be accompanied by a receipt from the administrator evidencing the payment of all required site plan fees. No permit or variance shall be issued unless the applicant in support of his application shall submit engineering data, surveys, site plans and other information as the City may require in order to determine the effects of such development on the affected lands and water areas. Such data, etc., shall be prepared by hydrologists, biologists, botanists, or other technical persons as required by the zoning administrator. Approval may be expressly given in conjunction with other development permits applied for, but no approval shall be implied from the granting of such development permits nor from the necessity to apply for a permit as described in this section. The site plan must comply with this section.

- (b) The site plans shall be prepared to a scale appropriate to the size of the project and suitable for the review to be performed, which shall not be less than one inch equals 200 feet or more than one inch equals ten feet.
- (c) The following information shall be provided in the site plan:
 - (1) The name and address of the owner and developer, the legal description and address of the property, north point, date, scale of drawing, and number of sheets.
 - (2) Location of the property including such information as the name and numbers of adjoining railroads, roads, existing subdivisions, buildings, and other landmarks.
 - (3) Existing topography as indicated on a contour map having contour intervals, of one foot on a zero percent to three percent slope, two feet on a three percent to ten percent slope, and five feet on a ten percent or greater slope: the topography map shall also clearly delineate any bluff line, all streams, including intermittent streams and swales, rivers, water bodies, and wetlands located on the site, including depth of water, bottom slope, a description of body materials and all vegetation which may be found in the water body, a statement of water turbidity, a statement of water quality, and a classification given to the water body by the state department of natural resources and the state pollution control agency, if any. The topography map shall indicate the floodway and/or flood fringe lines and shall indicate the ordinary high water level of the river.
 - (4) A plan delineating existing drainage of the water setting forth in which direction, the volume and at what rate storm water is conveyed from the site, and setting forth those areas of the site where storm water collects and is gradually percolated into the ground or slowly released to stream or lake.
 - (5) A description of the soils of the site, including a map indicating soil types by areas to be distributed as well as soil report prepared by a soil scientist containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable. All areas proposed for grading shall be identified by soil type, both as a soil type of existing topsoil and soil type of the new contour. The location and extent of any erosion areas shall be indicated.
 - (6) A description of the flora and fauna, which occupy the site and are occasionally found thereon, setting forth with detail those areas where unique plant or animal species may be found on the site.
 - (7) A description of any features, buildings or areas which are of historic significance.
 - (8) A map indicating proposed finished grade shown at contours at the same intervals as provided above or as required to clearly indicate the

relationship of proposed changes to existing topography and remaining features.

- (9) A landscape plan drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all existing vegetation, clearly locating and describing any vegetation proposed for removal and all proposed landscape materials which will be added to the site as part of the development.
 - (10) A proposed drainage plan of the developed site delineating in which direction, the volume, and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect and gradually percolate into the ground, or be slowly released to stream or lake. The plan shall also set forth hydraulic capacity of all structures to be constructed or existing structures to be utilized, including volume of holding ponds and design of the storm drainage system.
 - (11) An erosion and sedimentation control plan indicating the type, location, and necessary technical information on control measures to be taken both during and after construction, including a statement expressing the calculated anticipated gross soil loss expressed in tons/acre/year both during and after construction which complies with standards in subsection 74-287(7).
 - (12) The proposed size, alignment, height, and intended use of any structures to be erected or located on the site, including building elevations (front, rear and sides).
 - (13) A clear delineation of all areas which shall be paved or surfaced including a description of the surface material to be used.
 - (14) A description of the method to be provided for vehicular and pedestrian access to the proposed development and public access to the river and/or public river view opportunities both before and after development; a description of the development's impact on existing views of and along the river.
 - (15) A description of all parking facilities to be provided as part of the development of the site including an analysis of parking needs generated by the proposed development.
 - (16) A delineation of the area or areas to be dedicated for public use.
 - (17) A delineation of the location and amounts of excavated soils to be stored on the site during construction.
 - (18) Any other information pertinent to the particular project which in the opinion of the inspector or applicant is necessary or helpful for the review of the project.
- (d) Three classifications of development are hereby established:
- (1) Development on more than one parcel of residential property or any development of commercial or industrial property;

- (2) Construction of one new single-family home;
- (3) Any additions, alterations or modifications to one, existing single-family home.
- (e) Developments described in subsection (d)(1) of this section must provide all of the information requested in subsection (c) of this section. Developments described in subsection (d)(2) of this section must provide information requested in subsections (c)(1)--(3) and (7)--(9) of this section, as modified to locate and describe any vegetation proposed for removal and all proposed landscape materials which will be added to the site as part of the development and subsections (c)(12), (13), and (18) of this section. Developments described in subsection (d)(3) of this section must provide information requested in subsections (c)(1), (2), (12), (13), and (18) of this section.

Section 74-309.

Expiration; extension and revisions.

- (a) A permittee shall begin the work authorized by the permit within 60 days from the date of issuance of the permit unless otherwise specified in the permit. The permittee shall complete the work authorized by the permit within the time limit specified in the permit which in no event shall be more than 12 months from the date of issuance. The permittee shall notify the zoning administrator at least 24 hours prior to the commencement of work.
- (b) Should the work not be commenced as specified in this section, then the permit shall be void. However, if prior to the date established for commencement of work, the permittee makes written request to the zoning administrator for an extension of time to commence the work setting forth the reasons for the required extension, the administrator may grant one extension of not greater than one year.
- (c) Any revision of the original approved site plan must be approved by the City Council after recommendation by the Planning Commission and zoning administrator.
- (d) A permit may be approved subject to compliance with conditions which are specifically set forth in the permit and are necessary to insure compliance with the requirements contained in this article. Such conditions may limit the size, kind or character of the proposed development, require the construction of other structures, including special foundations and soil stabilization structures, establish required monitoring procedures, require such alterations of the site as may be necessary, require execution of an agreement between the City and the developer, require surety in the form of a performance bond, escrow or letter of credit. Accompanying such agreement and surety shall be a statement from the owner indicating the City's right of entry to the property if it becomes necessary to complete the agreed work.

Section 74-310.

Fees.

A schedule of fees for the examination and approval of site plans leading to an environmental permit, and the inspection of all required improvements and conditions in such plans, shall be determined by the City Council. The City Council may from time to

time change such schedule. Prior to approval of any site plan, such fees shall be paid to the zoning administrator and be deposited to the credit of the general fund.

Section 74-311.

Effect of permit.

The granting of an environmental permit under the provisions of this article shall in no way affect the owners or the permittee's responsibility to obtain the approval required by any other statute, ordinance or regulation of any federal or state agency or subdivision thereof.

Sections 74-312--74-340.

Reserved.

CHAPTER 74. ZONING

ARTICLE VII. Floodplains

*State law references – Floodplain management, Minn. Stats §103F.101 et seq.; floodplain management ordinances, Minn. Stats. §103F.121

Section 74-341. Statutory Authorization.

The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Anoka, Minnesota, does ordain as follows.

Section 74-342. Purpose.

- (a) This Article regulates development in the flood hazard areas of the City of Anoka. 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 Article to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- (b) National Flood Insurance Program Compliance. This Article 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 Article 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.

Section 74-343. General Provisions.

- (a) **How to Use This Article:** This Article adopts the floodplain maps applicable to the City of Anoka and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.
 - (1) Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 74-351 through 74-74-354 *Floodway Overlay District* or Section 74-355 *Flood Fringe Overlay District* will apply, depending on the location of a property.
 - (2) Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Sections 74-351 through 74-74-354 *Floodway Overlay District* apply unless the floodway boundary is

determined, according to the process outlined in Section 74-356 *General Floodplain Overlay District*. Once the floodway boundary is determined, the Flood Fringe District standards in Section 74-355 *Flood Fringe Overlay District* may apply outside the floodway.

- (b) **Lands to Which Article Applies:** This Article applies to all lands within the jurisdiction of the City of Anoka shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain overlay Districts.
- (1) The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this Article. In case of a conflict, the more restrictive standards will apply.
 - (2) If there are any discrepancies between this Article and the City Code, the most restrictive shall apply within the Floodway, Flood Fringe and General Floodplain overlay districts.

Section 74-344.

Incorporation of Maps by Reference.

The following maps are hereby adopted by reference and declared to be a part of the Official Zoning Map and this Article. The attached material includes the Flood Insurance Study for Anoka County, Minnesota, and Incorporated Areas, dated December 16, 2015 and the Flood Insurance Rate Map panels enumerated below, dated December 16, 2015, all prepared by the Federal Emergency Management Agency. These materials are on file in the City Clerk's office.

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Section 74-345.

Interpretation.

The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.

- (a) 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.
- (b) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the City Council and to submit technical evidence (refer to Section 74-37(d) *Appeals* and Section 74-37(e) *District Court Appeals*).

Section 74-346.

Abrogation and Greater Restrictions.

It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this Article imposes greater restrictions, the provisions of this Article prevail. All other ordinances inconsistent with this Article are hereby repealed to the extent of the inconsistency only.

Section 74-347.

Warning and Disclaimer of Liability.

This Article 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 Article does not create liability on the part of the City of Anoka or its officers or employees for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

Section 74-348.

Definitions.

Unless specifically defined below, words or phrases used in this Article must be interpreted according to common usage and so as to give this ordinance its most reasonable application. For the purposes of this Article, the following definitions shall apply:

Base Flood Elevation means the elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.

Basement (for purposes of this Article only) means 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.

Critical Facilities means facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

Development means any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Equal Degree of Encroachment means 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.

Farm Fence means a fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this Article. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this Article.

Flood means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe means that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Anoka County, Minnesota.

Flood Prone Area means any land susceptible to being inundated by water from any source (see “Flood”).

Flood Related Repetitive Loss means 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.

Floodplain means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Floodproofing means 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 means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Lowest Floor means 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.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

Obstruction means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

One Hundred Year Floodplain means lands inundated by the “Regional Flood” (see definition).

Reach means 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.

Recreational Vehicle means a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

Regional Flood means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

Regulatory Flood Protection Elevation (RFPE) means an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Special Flood Hazard Area means a term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

Substantial Damage means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this Article, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

Section 74-349.

Establishment of Zoning Districts.

- (a) Floodway Overlay District. The Floodway Overlay District includes those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 74-344 *Incorporation of Maps by Reference*.
- (b) Flood Fringe Overlay District. The Flood Fringe Overlay District includes those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in Section 74-344 *Incorporation of Maps by Reference*, as being within Zone AE but being located outside of the floodway.
- (c) General Floodplain Overlay District. The General Floodplain Overlay District includes those areas designated as Zone A or Zone AE without a floodway on the Flood Insurance Rate Map adopted in Section 74-344 *Incorporation of Maps by Reference*.

Section 74-350.

Compliance.

Within the floodplain districts established in this Article, 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 Article and other applicable regulations. All uses not listed as permitted uses or conditional uses in Sections 74-351 through 74-74-534 *Floodway Overlay District*, Section 74-355 *Flood Fringe Overlay District* and 74-356 *General Floodplain Overlay District*, respectively, are prohibited.

In addition, a caution is provided here that:

- (a) All structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (b) 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 Article and specifically as stated in Section 74-360 *Administration* of this Article.
- (c) Critical facilities, as defined in Section 74-348, are prohibited in all floodplain districts.

Section 74-351.

Floodway Overlay District (FW).

- (a) **Permitted Uses:** The following uses, subject to the standards set forth in Section 74-352 *Standards for Floodway Permitted Uses*, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
 - (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - (2) Industrial-commercial loading areas, and parking areas.
 - (3) Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, and single or multiple purpose recreational trails.
 - (4) Residential lawns, gardens, parking areas, and play areas.
 - (5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit, and that the standards in Sections 74-354 *Standards for Floodway Conditional Uses*, 74-354(c) *Accessory Structures*, and 74-35(c4f) *Floodway developments* of this Article are met.
 - (6) Temporary docks which are removed seasonally within the Mississippi River Control Corridor.

Section 74-352.

Standards for Floodway Permitted Uses.

- (a) The use must have a low flood damage potential.
- (b) With the exception of the uses listed in Section 74-351(5) *Railroads streets, bridges, utility transmission lines and pipelines*, 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.
- (c) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

Section 74-353.

Conditional Uses.

The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 74-360(c) *Conditional Uses* of this Article and further subject to the standards set forth in Section 74-353 *Standards for Floodway Conditional Uses*, if otherwise allowed in the underlying zoning district or any applicable overlay district.

- (a) Structures accessory to the uses listed in Section 74-351(a) *Permitted Uses* above and the uses listed in (b) – (e) below.
- (b) Marinas, boat rentals, permanent or temporary docks (within the Rum River Protection Corridor), permanent docks (within the Mississippi River Control Corridor), piers, wharves, and water control structures.
- (c) Storage yards for equipment, machinery, or materials.
- (d) Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in Section 74-348 *Definitions*, are permitted uses.
- (e) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

Section 74-354.

Standards for Floodway Conditional Uses.

- (a) 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.
- (b) Fill; Storage of Materials and Equipment:
 - (1) 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.
 - (2) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

- (3) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
- (c) Accessory Structures:
 - (1) Accessory structures must not be designed for human habitation.
 - (2) 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:
 - a. Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - b. So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.
 - (3) 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:
 - a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and
 - b. Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
 - (4) 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 and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:
 - a. 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
 - b. 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.
- (d) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.

- (e) 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.
- (f) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

Section 74-355.

Flood Fringe Overlay District (FF).

- (a) Permitted Uses: Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 74-355(a1).
 - (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
 - a. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
 - b. As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with Section 74-354(c) *Accessory Structures*.
 - c. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 74-355(b) of this Article, or if allowed as a conditional use under Section 74-355(d) below.
 - d. The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
 - e. 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.
 - f. Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
 - g. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation.
 - h. 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.

- i. 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.
 - j. Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
 - k. Manufactured homes and recreational vehicles must meet the standards of Section 74-359 *Manufactured Homes, Manufactured Home Parks, and Recreational Vehicles* of this Article.
- (b) Conditional Uses: The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 74-360(c) *Conditional Uses* of this Article. Conditional uses must meet the standards in Sections 74-355(a1e) through 74-355(a1k) and Section 74-74-355(c) *Standards for Flood Fringe Conditional Uses*.
- (1) Any structure that is not elevated on fill or floodproofed in accordance with Section 74-355(a) *Permitted Uses* of this Article.
 - (2) Storage of any material or equipment below the regulatory flood protection elevation.
 - (3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 74-355(a) *Permitted Uses* of this Article.
- (c) Standards for Flood Fringe Conditional Uses:
- (1) The standards listed in Sections 74-355(a1d) *The storage of any material...* through 74-355(b) *Conditional Uses* apply to all conditional uses.
 - (2) Basements, as defined by Section 74-348 *Definitions* of this Article, 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 Section 74-355(c4) *The placement of more than...* of this Article.

- (3) 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.
- (4) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - a. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
 - b. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.
 - c. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (5) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

Section 74-356.

General Floodplain Overlay District (GF).

- (a) Permitted Uses:
 - (1) The uses listed in Section 74-351 *Standards for Floodway Conditional Uses* of this Article, Floodway Overlay District Permitted Uses, are permitted uses.
 - (2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 74-356 *General Floodplain Overlay District* below. Section 74-351 *Floodway Overlay District* applies if the proposed use is determined to be in the Floodway Overlay District. Section 74-355 *Flood Fringe Overlay District* applies if the proposed use is determined to be in the Flood Fringe Overlay District.
- (b) Procedures for Floodway and Flood Fringe Determinations:
 - (1) Upon receipt of an application for a permit or other approval within the General Floodplain Overlay District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

- (2) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in 74-356(b3) below.
- (3) The determination of floodway and flood fringe must include the following components, as applicable:
 - a. Estimate the peak discharge of the regional (1% chance) flood.
 - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
- (4) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe Overlay District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
- (5) Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Section 74-351 *Floodway Overlay District* and 74-355 *Flood Fringe Overlay District* of this Article.

Section 74-357.

Subdivisions.

- (a) Subdivisions: No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
 - (1) All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
 - (2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation.

- (3) For all subdivisions in the floodplain, the Floodway and Flood Fringe Overlay District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
- (4) In the General Floodplain District, applicants must provide the information required in Section 74-356 *General Floodplain Overlay District* of this Article to determine the regional flood elevation, the Floodway and Flood Fringe Overlay District boundaries and the regulatory flood protection elevation for the subdivision site.

Section 74-358.

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 Sections 74-351 *Floodway Overlay District* and 74-355 *Flood Fringe District* of this Article. 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.

Section 74-359.

Manufactured Homes, Manufactured Home Parks, and Recreational Vehicles.

- (a) Manufactured Homes: New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district.
- (b) Outside Storage of Recreational Vehicles: Where outside storage of Recreational Vehicles are permitted, the recreational vehicle must have a current license required for highway use, is highway ready, meaning on wheels or the internal jacking system, and no permanent structural type addition shall be attached to the vehicle.

Section 74-360.

Administration.

- (a) Permit Requirements:

- (1) Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:
 - a. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this Article.
 - b. A change of use of a building, structure, or land.
 - c. The construction of a dam, fence, or on-site septic system.
 - d. The change or extension of a nonconforming use.
 - e. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - f. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
 - g. Relocation or alteration of a watercourse - including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
State law reference – Authority for above, Minn. Stat. §103G.245.
 - h. Any other type of “development” as defined in this Article.
- (2) Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator.
- (3) Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Article.
- (4) Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Article. Floodproofing measures must be certified by a registered professional engineer or registered architect.
- (5) Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- (6) Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator

must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

- (7) Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(b) Variances:

- (1) Variance Applications. An application for a variance to the provisions of this Article will be processed and reviewed in accordance with applicable state statutes and Section 74-37 *Appeals and variances* of the Zoning Ordinance.
- (2) Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards less than those required by state law.
- (3) Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- a. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - b. Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

- (5) General Considerations. The City Council 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 importance of the services to be provided by the proposed use to the community;
 - e. The requirements of the facility for a waterfront location;
 - f. The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - g. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - h. The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- (6) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (7) Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (8) Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.
- (c) Conditional Uses:

- (1) Administrative Review. An application for a conditional use permit under the provisions of this Article will be processed and reviewed in accordance with Chapter 74; Article IV *Conditional Uses* of the Zoning Ordinance.
- (2) Factors Used in Decision-Making. In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of this Chapter and those factors identified in Section 74-360(b5) *Variances* of this Article.
- (3) Conditions Attached to Conditional Use Permits. The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Article. 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 Article. 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.
- (4) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (5) Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

Section 74-361.

Nonconformities.

- (a) Continuance of Nonconformities: A use, structure, or occupancy of land which was lawful before the passage or amendment of this Article but which is not in conformity with the provisions of this Article may be continued subject to the following conditions. Historic structures, as defined by this Article as a *Substantial Improvement*, are subject to the provisions of Sections 74-361(a1) – 74-361(a4) of this Article.
 - (1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage

potential or degree of obstruction to flood flows except as provided in Section 74-361(a2) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

- (2) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 74-361(a3) and 74-361(a5) below.
- (3) If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, then the entire structure must meet the standards of Section 74-351 (*Floodway Overlay District*) or 74-355 (*Flood Fringe Overlay District*) of this ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe Overlay Districts, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
- (4) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this Article. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.
- (5) If any nonconformity is *Substantially Damaged*, as defined in Section 74-348 of this Article, it may not be reconstructed except in conformity with the provisions of this Article. The applicable provisions for establishing new uses or new structures in Sections 74-351 *Floodway Overlay District* or 74-355 *Flood Fringe Overlay District* will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- (6) Any *Substantial Improvement*, as defined in Section 74-348 of this Article, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 74-351 *Floodway Overlay District* or 74-355 *Flood Fringe Overlay District* of this Article for new structures, depending upon whether the structure is in the Floodway or Flood Fringe Overlay District.

Section 74-362.

Penalties and Enforcement.

- (a) Violation Constitutes a Misdemeanor: Violation of the provisions of this Article 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 Article restricts the City of Anoka 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 Article and will be prosecuted accordingly.

- (c) Enforcement: Violations of the provisions of this Article will be investigated and resolved in accordance with the provisions of Chapter 74; Article II, Section 74-31 *Violations and penalties* of the zoning ordinance/code. In responding to a suspected ordinance violation, the Zoning Administrator and the 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 Anoka 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.

Section 74-363.

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 Article must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.
- (c) Map Revisions Require Ordinance Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 74-344 *Incorporation of Maps by Reference* of this Article.

Sections 74-364 thru 74-440.

Reserved.

CHAPTER 74. ZONING

ARTICLE VIII. Signs

Section 74-441. Purpose and findings.

The purpose and finding of this article are as follows:

- (a) *Purpose.* This Article is intended to establish 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 article to promote the health, safety and welfare, aesthetics, and image of the community by regulating signs that are intended to communicate to the public, and to use signs which meet the City's goals by authorizing:
 - (1) Permanent signs which establish a high standard of aesthetics;
 - (2) Signs which are compatible with their surroundings;
 - (3) Signs which are designed, constructed, installed and maintained in a manner that does not adversely impact the public safety or unduly distract motorists;
 - (4) Signs which are large enough to convey the intended message;
 - (5) Signs that are proportioned to the scale of, and are architecturally compatible with, principal structures;
 - (6) Permanent signs which give preference to the on-premise owner or occupant; and
 - (7) Temporary commercial signs and advertising displays which provide an opportunity for grand openings and occasional sales events while restricting signs which create continuous visual clutter and hazards of public right-of-way intersections.
- (b) *Findings.* The City finds it necessary for the promotion and preservation of the public health, safety, welfare and aesthetics of the community that the construction, location, size and maintenance of signs be controlled. Further, the City finds:
 - (1) Permanent and temporary signs have a direct impact on and relationship to the image of the community;
 - (2) The manner of installation, location and maintenance of signs affects the public health, safety, welfare and aesthetics of the community;
 - (3) An opportunity for visible identification of community businesses and institutions must be established;
 - (4) The safety of motorists, cyclists, pedestrians and other users of public streets and property is affected by the number, size, location and appearance of signs that unduly divert the attention of drivers;

- (5) Installation of signs suspended from, projecting over, or placed on the tops of buildings, walks or other structures may constitute a hazard during periods of high winds and an obstacle to effective firefighting and other emergency service;
- (6) Uncontrolled and unlimited signs adversely impact the image and aesthetic attractiveness of the community and thereby undermine economic value and growth;
- (7) Uncontrolled and unlimited signs, particularly temporary signs which are located within or adjacent to public right-of-way or are located at the driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information;
- (8) Commercial signs are generally incompatible with residential uses and should be strictly limited in residential zoning districts; and
- (9) The right to express noncommercial opinions in any zoning district must be protected, subject to reasonable restrictions on size, height, location and number of signs.

Section 74-442.

Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Address sign means a sign communicating street address only, whether written or in numerical form.

Advertising sign means a sign which directs attention to business, commodity, service, activity, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located.

Awning or canopy means a structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be fixed, raised, or retracted to a position against the building.

Banners and pennants means attention-getting devices which resemble flags and are of paper, cloth, or material of a plastic-like consistency.

Billboard. See "Advertising sign" or "Off-premises sign."

Building frontage means that building elevation that fronts on a public street where customer access to the building is available.

Business sign means a sign which directs attention to a business or profession or to a commodity or service, sold, offered or manufactured, or to an entertainment offered on the premises where such sign is located.

Campaign sign. See "Political sign."

Canopy and Marquee signs means any message or identification which is affixed to a projection or extension of a building or structure, erected in such a manner as to provide a shelter or cover over the approach to any entrance of a store, building, or place of assembly.

Construction sign means a temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the name of the architects, engineers, landscape architects, contractors or similar artisans, or the owner, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

Directional sign means signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance," "exit."

Electronic variable message sign means signs whose message may be changed at reasonable intervals by electronic process or remote control and whose only movement is the periodic changing of information against a solid, colorless background, engineered for maximum legibility and readability, and having a contact light level and glare reducing screens.

Facade sign. See "Wall sign."

Flashing sign means a directly or indirectly illuminated sign changing natural or artificial lights or color effects by any means whatsoever.

Freestanding sign means a sign which is self-supporting and affixed to a frame structure not attached to a building.

Governmental sign means a sign which is erected by a governmental unit for the purpose of identifying and directing or guiding traffic.

Ground monument sign means a sign not supported by exposed posts or poles which is architecturally designed and located directly at grade where the base width dimension is 50 percent or more of the greatest width of the sign.

Hanging sign means a projecting sign whose sign face is attached indirectly to a building by a supporting arm or hanger from above. Also, known as a shingle sign.

Holiday sign means signs or displays which depict a message pertaining to a National or State holiday, and no other matter.

Identification sign means a sign giving the nature, logo, trademark, or other identifying symbol, address, or any combination of the name, symbol, and address of a building, business, residential development, or establishment on the premises where it is located.

Illuminated sign means a sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.

Informational-directional sign means any sign giving information to employees, visitors or delivery vehicles, but containing no advertising, may include name or business, but must predominantly represent a directional or informational message.

Institutional sign means a sign or bulletin board which identifies the name and characteristics of a public, semipublic, or private institution, including churches,

hospitals, nursing homes, school, and other nonprofit and charitable organizations, on the site where the sign is located.

Integral sign means a sign with the names of buildings, date of construction, commemorative tablets and the like, which are of a permanent type of construction and which are an integral part of the building or structure.

Marquee means a permanent roof-like structure extending from part of the wall of a building but not supported by the ground, and constructed of durable material such as metal or glass.

Message center/time and temperature display means a sign having electrically changing copy which displays current time, temperature, and/or public service announcements.

Multi-tenant center means a group of commercial retail establishments with visual appearance as a contiguous structure which may or may not be planned, constructed or managed as a total entity.

Nameplate sign means a sign, located on the premises, giving the name or address, or both, of the owner or occupant of a building or premises.

Nonconforming sign means any sign lawfully existing on the effective date of the ordinance from which this article is derived, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended article.

Off-premises sign means a sign advertising a business, commodity, service, or entertainment conducted, sold, or offered other than upon the premises where the sign is maintained. The term off-premise sign shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

On-premises sign means a sign which advertises the business, commodity, service, or entertainment offered upon the same premises as those upon which the sign is built.

Political sign means a temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

Portable sign means a sign which is attached to a trailer or other mobile structure, and may be moved from place to place.

Projecting sign means a sign, other than a wall sign, which is affixed to a building and which extends perpendicular from the building wall.

Public sign means a sign of a public, non-commercial nature, to include safety, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques, and the like, when signs are erected by an order of a public officer or employee in performance of official duty.

Pylon sign means a freestanding sign supported by a post or posts so that the sign and supports are finished to grade by encasing the posts in a material consistent with the sign and where the base width dimension is a minimum of ten percent up to and including 50 percent of the greatest width of the sign. The sign placed on the posts must be a minimum of ten feet from grade at the base of the sign.

Readerboard sign means any sign having a message not permanently affixed to a sign face and the copy is manually changed.

Real estate sign means a sign pertaining to the sale, lease or rental of the premises, or a portion of the premises, on which the sign is located.

Roof sign means a sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of the building with a gambrel, gable or hip roof, or the deck line of a building with a mansard roof.

Roof sign, integral means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches. The term "roof sign, integral" includes name of building, date of constructions, commemorative tablet, and the like which are of a permanent type of construction and which are an integral part of the building.

Rotating sign means a sign which revolves or rotates on its axis by mechanical means.

Sign means a name, identification, description, display, illustration or 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 a product, place, activity, person, institution, or business.

Sign area means the entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure. Only one side of a double-face or V-type sign structure shall be used in computing total surface area. When letters or graphics are mounted directly on a wall in such a way as to be without a frame, the dimensions of calculating square footage shall be the area four inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outer most points thereof. Each wall surface utilized to display a message or to attract attention shall be measured as a sign.

Sign structure means the supports, foundations, uprights, bracing and framework for a sign, including the sign area.

Storefront means that portion of a building frontage occupied by a single tenant space having a public entrance within the building frontage. Also, is known as business front.

Surface area of a sign means the entire area within a single, continuous, perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or v-type sign structure shall be used in computing total surface area. Letters or graphics mounted directly on a wall in such a way as to be without a frame shall be calculated as follows: the square footage shall be the area four inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines, connecting the outer most points thereof. Each surface utilized to display a message(s) to attract attention shall be measured as a sign.

Temporary sign means a sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

Trailer sign means a sign which is attached to a trailer or other mobile structure, and may be moved from place to place.

Wall sign means a sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than 24 inches from such building or structure.

Section 74-443.

Reserved.

Section 74-444.

Compliance with article and permits.

All signs hereafter erected, constructed or maintained, except official traffic and street signs, shall conform with the provisions of this Article and any other ordinances or regulations of the City. A sign permit shall be required for each sign, the fee for which shall be determined by a fee schedule established by resolution of the City Council. The following information shall be filed with the building inspector prior to issuance of a sign permit:

- (a) A drawing of the proposed sign, or signs, showing dimensions and described materials, lettering, colors, illumination and support systems.
- (b) A drawing of the building face and site plan showing the location of the proposed sign as necessary.
- (c) A cross section of the building face showing how the sign will be attached and how far it will extend from the building.
- (d) A building sign plan for a building with more than one use or business, showing all signs.
- (e) The location and size of existing site signage that will remain on the site.
- (f) The name and address of the applicants; the location of the building, structure, or lot on which the sign is to be erected; the position of the sign in relation to nearby buildings or structures; the name of the person that will be erecting the sign; and, the written consent of the owner, if different from the applicant, of any land on which the sign is to be erected.

Section 74-445.

Exempted signs.

- (a) The following signs are exempt from the requirements of this Article:
 - (1) Informational signs not exceeding two square feet in area displayed strictly for the convenience of the public, including signs which identify restrooms, waste receptacles, addresses, door bells, mailboxes, or building entrances.
 - (2) Memorial plaques, cornerstones, and historical tablets.
 - (3) Wall or window occupational signs or marquee, awning, or canopy signs giving the name or profession of a business, provided the sign does not exceed four square feet in area.

- (4) Public signs, street signs, warning signs, railroad crossing signs, signs of public service companies for the purpose of safety, or private traffic directional signs of not over eight square feet.
 - (5) Temporary political signs, per MS 211B.045, as may be amended from time to time, except that such signs shall not be located in the public right-of-way.
 - (6) Temporary political signs in non state general election years provided that such signs may only be posted from August 1 until ten (10) days after the election and that such signed may not be located in the public right-of-way.
- (b) The following signs do not require a permit or permit fee; however, the other requirements of this article shall apply:
- (1) Temporary real estate signs pertaining only to the sale, rental, or development of the premises upon which they are displayed.
 - (2) Construction signs designating the architects, lending institutions, engineers, or contractors when placed on a site where a building is to be constructed within 90 days.
 - (3) Temporary window signs.
 - (4) Other exterior temporary signs of under 12 square feet.

Section 74-446.

General regulations.

The following regulations shall apply to all signs permitted in all districts:

- (a) Signs shall not be permitted within the public right-of-way or on easements, except that the City Manager or designee of the City Manager may allow temporary signs for local community event to be erected upon a site designated by the City. A banner permit is required for such signs, which will be permitted for a period not exceeding two (2) weeks. Banners that promote religious, political, business or personal causes will not be permitted.
- (b) Signs painted on a building shall be governed by the square footage limitations specified in the appropriate zoning districts.
- (c) No sign, unless otherwise specified, shall project more than 24 inches over a public sidewalk, or be less than eight feet above the walk or grade.
- (d) No sign, except nameplate signs and directional signs as allowed, shall project more than 24 inches across a required front yard or a required side yard.
- (e) No sign shall be placed that resembles any official marker erected by a governmental agency or displays such words as "Stop" or "Danger."
- (f) No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide required light, air, ingress or egress for any building or structure.

- (g) The owner, lessee or manager of a ground or freestanding sign and the owner of the land on which such sign is located shall keep grass or weeds and other growth cut, and debris and rubbish cleaned up and removed from the lot on which such sign is located.
- (h) Billboards, business signs and nameplate signs which may be or hereafter become rotted, unsafe, or unsightly shall be repaired or removed by the licensee or owner of the property upon which the sign stands, upon notice of the zoning administrator or a designee of the zoning administrator or the building inspector or a designee or the building inspector.
- (i) Where a sign is illuminated, the following regulations shall apply:
 - (1) There shall be no signs having blinking, flashing, or fluttering lights or which change in brightness or color, except theater marquee signs which shall be limited to the hours from noon to midnight.
 - (2) Electronic variable message signs are permitted which provide public service information or advertise activities conducted on the premises on which the sign is located.
 - (3) Illuminated sign lighting shall be confined principally to the sign's surface and shall not spill onto adjacent properties in a manner which creates a hazard or is unreasonably annoying.
- (j) Awnings and canopies are allowed. All portions of any awning sign shall be at least eight feet above any public walkway. Fixed awnings may extend over public property not more than four feet from the face of a supporting building. Moveable awnings may extend over public property not more than eight feet from the face of a supporting building, but no portion shall extend nearer than two feet to the face of the nearest curbline measured horizontally or interfere with public placements in the right-of-way (trees, benches, planters, etc.). In no case shall the awning extend over public property greater than two-thirds of the distance from the property line to the nearest curb in front of the building site. Awning supports shall not be permitted to extend down into public property. Signage placed on an awning shall apply to the total allowable building signage allocation.
- (k) All freestanding signs shall be set back a minimum of five feet from all property lines and no part of such a sign shall be located in the sight triangle of a corner lot in violation of subsection 74-485(10).
- (l) No directional signs may be placed within 15 feet of the closest edge of a site entrance.
- (m) It shall be unlawful to use a parked vehicle or trailer as a sign in circumvention of this Article.

Section 74-447.

Temporary signs.

Temporary signs are permitted under the following regulations:

- (a) *Real estate signs.*

- (1) One temporary real estate sign is permitted for the sale or lease of an existing building or vacant lot for each street frontage of the parcel and must be located on the premises. Such sign shall not exceed 12 square feet in area in a residential district or 32 square feet in all other districts.
- (2) One temporary development real estate sign not exceeding 64 square feet in area and located on the property shall be permitted on each public street frontage of a commercial, industrial, or residential development with ten or more dwelling units for rent or sale. No more than two directional signs not exceeding 32 square feet in area shall be permitted on a collector or arterial street leading directly to such development.
- (b) *Construction signs.* One construction sign not exceeding 32 square feet in area in all districts shall be permitted on each street frontage of a development site. Such signs shall be removed within 14 days after the development is constructed.
- (c) *Political signs.* Political signs, per MS 211B.045, as may be amended from time to time, except that such signs shall not be located in the public right-of-way.
- (d) *Window signs.* Temporary window signs shall be permitted in a commercial district and shall not occupy over 40 percent of the window area on any building frontage.
- (e) *Beacons, search lights, and portable signs.*
 - (1) The zoning administrator or building inspector may issue permits for the use of portable signs, revolving beacons, search lights or other exterior temporary signs for grand openings or special occasions in commercial and industrial districts, as well as for institutional uses in residential districts.
 - (2) Permits for portable signs shall be for a maximum of 30 days and shall not be issued in conjunction with the same business activity for more than 90 days in any calendar year. No more than three permits shall be issued to the same business activity per calendar year.
 - (3) Search lights and revolving beacons shall not be directed into residential areas or onto streets and shall be permitted no more than six days per calendar year for the same business activity.
 - (4) No permit shall be required for temporary signs of an entirely noncommercial, celebratory nature. Celebratory signs shall include banners or other signs celebrating a victory by a local team, a local festival, or some other nonprofit social event. Such signs, however, may not be displayed for more than four consecutive weeks and no business activity or person may display more than two celebratory signs per year.
 - (5) As a condition for issuance of a permit, the building inspector may impose such requirements for materials, manner of construction, and method of erection of the sign as are reasonably necessary to assure the health, safety, and welfare of the public.

- (6) A portable sign shall not exceed 32 square feet in gross surface for each exposed face, nor exceed an aggregate gross surface area of 64 square feet.
 - (7) Portable signs shall be located only upon the lots upon which the unique, special, or limited activities, services, or sales are to occur. Such signs may be located within required front, rear, or side yards, but shall not extend over any lot line nor within 15 feet of any point of vehicular access to a public roadway.
 - (8) Portable signs shall not project higher than six feet as measured from the base of the sign or the grade of the nearest adjacent roadway, whichever is higher.
 - (9) Any lighted portable sign used for more than 30 days in one year must have permanent wiring suitable for exterior use and be approved by the building inspector.
 - (10) Portable signs used at the City armory, or other public facility, which advertise and promote community wide sales and events are exempt from the regulations of subsections (5)b., f., g. and h of this section, but a permit must be obtained and shall be limited to seven days per event. Any business so using these facilities may obtain such a permit in addition to any portable sign permit it obtains for its own business location.
- (f) *Banners.* Banners are permitted when securely fastened to the building on all four corners with wall anchors. Ropes are not permitted. The surface area of the banner shall be included in the total square footage of the allowable signage for an entire site.
- (g) *Pennants, and streamers.* Pennants and streamers may be used without a permit but must be well maintained, not frayed, torn, or tattered. Pennants and streamers may not be attached to city utility poles or be located within any public right-of-way.
- (h) *Posters and fliers.* Posters and fliers may not be affixed to trees or City utility poles or be located within any public right-of-way.
- (i) *Municipal signs.* Municipal signs shall be permitted in all districts subject to the following requirements:
- (1) The design shall be approved by the City Council and be owned and maintained by the City.
 - (2) Signs shall be set back at least ten feet from any property line and 15 feet from any street right-of-way.
 - (3) The message portion of a municipal sign shall not exceed 60 square feet in area and no more than eight square feet may be devoted to the name or logo of any donor.
- (j) *Temporary signs.* Temporary signs shall be located upon the lot for which the activity, service, or sales are to occur.

Section 74-448.

Signs in residence districts.

In all residence districts, no sign, business sign, nameplate sign or advertising sign shall be erected except for the following:

- (a) A nameplate sign or professional nameplate sign identifying the owner or occupant of a building or dwelling unit, provided that the surface area does not exceed two square feet. This sign may be placed in any front yard and may be illuminated,
- (b) A sign pertaining to the lease or sale of a building or property, provided that such sign shall not exceed 12 square feet in surface area and shall not be illuminated.
- (c) Temporary signs advertising a new subdivision development. Each subdivision or development shall be allowed the following signs:
 - (1) One sign not to exceed 64 square feet in surface area, no more than 15 feet in height.
 - (2) One sign not to exceed 12 square feet in surface area, no more than 15 feet in height.
 - (3) Directional signs not to exceed two square feet in surface area; provided that each subdivision shall be limited to one such sign per major thoroughfare approach to the subdivision or development. No such sign shall be allowed on minor residential streets.
- (d) Temporary non-illuminated signs identifying an engineer architect, contractor, or product engaged in or used in the construction of a building, provided that such signs shall not exceed 12 square feet each in surface area and are not more than 15 feet in height; and provided that such signs are removed prior to occupancy of the building.
- (e) One identification sign, not to exceed 32 square feet in area, for the following uses: church, school, university or college, sanitarium, club, library, apartment building and/or complex or similar uses. Such signs shall be solely for the purpose of displaying the name of the institution or apartment building and/or complex and its activities or services. It may be illuminated, but not flashing. A second sign may be permitted if located at a primary entrance on a major thoroughfare.
- (f) Directional signs not to exceed four square feet in surface area for the following uses: church, school, university or college, hospital, sanitarium, club, library or similar use, provided that each shall be limited to one such sign per major thoroughfare approach. No such sign shall be allowed on minor residential streets.
- (g) One nameplate sign for a dwelling group of five or more units, not exceeding five square feet in surface area. Such signs may indicate the names and addresses of the buildings or it may be a directory for occupants.
- (h) Directional signs in any parking area necessary for the orderly movement of traffic, provided that such sign shall not be used as advertising space and shall not be illuminated.

Section 74-449.

B-1 Highway Business District.

- (a) Business signs and nameplate signs are permitted in a B-1 district subject to the following regulations:
 - (1) One identification sign, not to exceed 32 square feet in area, for private educational institutions, community centers, rest homes, nursing homes, and dental offices. It may be illuminated, but non-flashing. A second sign may be permitted if located at a primary entrance on a major thoroughfare.
 - (2) For business and professional office buildings, a business sign not exceeding 40 square feet in surface area or four percent of wall area upon which it is placed, whichever is greater, and indicating only the name and address of the building, occupant or management, may be displayed. For corner lots, two such signs, one facing each street, shall be permitted but may be combined to have one sign not to exceed 60 square feet.
 - (3) Notwithstanding the provisions in subsection (a)(2) of this section, business signs for multi-tenant centers shall be regulated as follows:
 - a. A multi-tenant center will be allowed a freestanding nameplate sign not exceeding 60 square feet in surface area.
 - b. The Planning Commission may recognize separate sign plans for multi-tenant buildings which will supercede the ordinance. The sign plans which have been approved by the Planning Commission will have the effect of a sign ordinance for specific property. The procedure for approval of sign plans that exceeds the limits of this Code shall be that of a variance described in section 74-35.
 - (4) Notwithstanding the provisions in subsection (a)(2) of this section, business signs for single-tenant conditional or permitted uses shall be limited to 200 square feet in area, including all signs, with not more than 150 square feet of signage attached to the building and not more than 60 square feet of ground sign. Businesses which have frontage on two arterial streets may have two pylon signs but may not exceed 200 square feet of total signage.
- (b) In the B-1 highway business district, no sign shall project higher than 25 feet above average grade at the building line or the height of the building, whichever is greater. Integral roof signs are permitted in the B-1 district.
- (c) All signs and signposts must be placed at a minimum of five feet setback from the property line in the B-1 highway business district.

Section 74-450.

B-2 Shopping Center Business District.

- (a) Business and nameplate signs are permitted in B-2 shopping center business districts, subject to the following regulations:

- (1) Each shopping center shall be permitted two freestanding signs not more than 200 square feet each in surface area. No part of either sign shall be closer than 30 feet from a street right-of-way nor 60 feet from a side lot line.
 - (2) Business nameplate signs shall be limited to flat wall signs which shall not extend more than 18 inches from the face of the building; except that a sign may be placed on the roof of a covered walk or marquee in a building complex, provided it does not extend above the roof or parapet line of the building. Each nameplate sign shall not exceed the sum of three square feet for each lineal foot of frontage.
- (b) Billboards shall not be erected within a developed, integrated shopping center property in the B-2 shopping center business district.
 - (c) In the B-2 shopping center business district, no sign shall project higher than the height of the corresponding business structure

Section 74-451.

B-3 General Business District.

- (a) In the B-3 general business district, business signs, and nameplate signs are permitted, subject to the following regulations:
 - (1) The total surface area of all business signs on a lot shall not exceed the sum of four square feet per lineal foot of lot frontage. Business nameplates shall not exceed the sum of three square feet for each lineal foot of lot frontage.
 - (2) In the case of corner lots, the average length of all sides of the lot with frontage shall be used to calculate the permitted total surface area. In addition, the surface area of business signs on any one side of a lot shall not exceed the sum of four square feet per lineal foot of the lot frontage on that side. Business nameplates shall not exceed the sum of three square feet for each lineal foot of lot frontage.
 - (3) No single business sign surface shall exceed 200 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 200 square feet.
- (b) No sign in the B-3 general business district shall project higher than 25 feet above average grade at the building line or above the height of the building, whichever is greater.
- (c) No rooftop signs in the shall be permitted in the B-3 general business district. Integral roof signs are permitted in the B-3 district.
- (d) One hanging sign shall be permitted per storefront in the B-3 general business district and shall be limited to 4½ square feet per side. The hanging sign and decorative supporting arm shall not project more than two feet from the building, and the lowest point of a hanging sign must be no less than eight feet above the sidewalk or ground. Hanging signs will not be included when calculating the total sign area allowed on a property.

Section 74-452.

B-4 Limited Commercial District.

- (a) Each establishment or enterprise in the B-4 limited commercial district may have wall signs and projecting signs on each wall, provided that the aggregated area of such signs does not exceed 40 square feet or four percent of the wall area on which it is placed, whichever is greater.
- (b) In a shopping center or multi-tenant building in the B-4 limited commercial district, each establishment may have a wall sign not exceeding six square feet. Two or more smaller signs may not be so integrated as to create a sign exceeding 40 square feet.
- (c) Freestanding signs are allowed for projects containing more than one building and which are located on sites of one acre or more in the B-4 limited commercial district. These signs shall not exceed 60 square feet.
- (d) Ground-mounted or freestanding business signs which consolidate all tenants are allowed in the B-4 limited commercial district. These signs shall not exceed 40 square feet and shall not exceed eight feet above grade at sign location. The minimum front yard setback from street right-of-way lines shall be 15 feet. Businesses on corner lots in the B-4 limited commercial district may have two such signs or combine allowed signage to one structure which may not exceed 60 square feet.
- (e) Each establishment may have one freestanding sign with a maximum area of 40 square feet. These signs shall not extend more than eight feet above ground level and must maintain a minimum front yard setback from the street right-of-way of 15 feet. In the event an establishment abuts two or more streets which are at least collector or arterial in character, one such freestanding sign may be erected along each street.

Section 74-453.

M-1 Light Industrial District.

- (a) Business signs and nameplate signs are permitted within M-1 light industrial districts, subject to the following regulations:
 - (1) The total surface area of all business signs on a lot shall not exceed the sum of two square feet per lineal foot of frontage. No single business sign surface shall exceed four percent of the wall area upon which the sign is placed or 100 square feet, whichever is less. In the case of corner lots, the side with the least frontage shall be used to calculate permitted area. Signs shall be professionally constructed of materials that are compatible with the exterior materials of the corresponding building structure.
 - (2) Each business site shall be permitted one monument sign not over 60 square feet in surface area. No part of such sign shall be closer than ten feet from a street right-of-way. Monument signs shall be constructed of materials that are of the same durability or similar to the exterior materials of the corresponding business structure. Facilities in this district that are governed by the covenants for the Anoka Enterprise Park (AEP) must obtain approval of the sign from the Anoka Enterprise Park Architectural Review Board prior to City issuance of a building permit to construct such sign.

- (3) Each business shall be permitted one directional sign on major thoroughfare approaches not to exceed eight feet in height and shall not exceed two square feet in area.
- (4) On-site directional signage shall not exceed six feet in height and shall not be more than four square feet in area.
- (b) Billboards and other outdoor advertising signs shall not be a permitted use in M-1 light industrial districts.
- (c) No sign shall project above the permitted building height in the M-1 light industrial districts. Integral roof signs are permitted in the M-1 light industrial district.

Section 74-454.

M-2 Industrial District.

- (a) Within M-2 industrial district, business signs, nameplate signs, and advertising signs (billboards) are permitted, subject to the following regulations:
 - (1) The total surface area of all business signs on a lot shall not exceed three square feet for each lineal foot of lot frontage. In the case of corner lots, the side with the least frontage shall be used to calculate permitted area. No single business sign surface area shall exceed 200 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 200 square feet.
 - (2) Each business site shall be permitted one monument or pylon sign not to exceed 80 square feet in area. No part of such sign shall be closer than ten feet from a street right-of-way.
- (b) The height and illumination sign provisions of the M-1 light industrial district shall apply in the M-2 general industrial district.
- (c) Advertising signs (billboards) shall be permitted subject to the following regulations:
 - (1) Advertising signs are prohibited within 200 feet of all public parks or residential structures.
 - (2) No advertising sign shall be closer than 50 feet to any property line or right-of-way line.
 - (3) No advertising sign shall be erected closer than 1,000 feet to another such sign on the same side of the street.
 - (4) Advertising signs shall not exceed 300 square feet in area nor 35 feet in height as measured perpendicularly from the height of the highest point of the sign structure to the grade level directly below the sign. Existing grade may not be altered for the purpose of increasing sign height.

Sections 74-455--74-480.

Reserved.

ARTICLE IX. Supplemental Regulations

DIVISION 1. Generally

Section 74-481. Accessory Uses.

The following accessory uses, in addition to those specified elsewhere in this chapter, shall be permitted in any residential district, if the accessory uses do not alter the character of the premises in respect to their use for the purposes permitted in the district:

- (a) The operation of necessary facilities and equipment in connection with schools, colleges, universities, hospitals and other institutions permitted in the district.
- (b) Recreation, refreshment and service buildings in public parks and playgrounds.

Section 74-482. Accessory Buildings.

- (a) Any accessory building in excess of 120 square feet must meet minimal requirements of the State Building Code.
- (b) In case an accessory building is attached to the main building, it shall be made structurally part of the main building and shall comply in all respects with the requirements of this chapter applicable to the main building.
- (c) An accessory building, unless attached to and made a part of the main building, shall not be closer than five (5) feet to the main building, except as otherwise provided in this section.
- (d) A detached accessory building shall not exceed fifteen (15) feet in height for a building with a shed or flat roof, eighteen (18) feet in height for a gable, hip, gambrel, mansard, arch or round roof, or the height of the principal building, whichever is less.
- (e) The wall height of a detached accessory building shall not exceed twelve (12) feet.
- (f) A detached accessory building shall not be located in any required front yard or within five (5) feet of any side or rear lot line.
- (g) In any residential zoning district the style, color, and facing material of a garage shall be compatible with the principal building. No garage shall have a facing material that consists of factory fabricated or pre-engineered steel and/or finished metal panels or other similar material.
- (h) No accessory building in a business or mixed use zoning district shall have a facing material that consists of metal, aluminum or other similar materials.
- (i) In residential districts, temporary accessory buildings and/or containers used for construction purposes are permitted for a period of up to six (6) months after the initial issuance of a building permit. Temporary buildings used for this purpose may be of any material.

Section 74-483. Height Regulations.

- (a) Where the average slope of a lot is greater than one foot rise or fall in seven feet of horizontal distance from the established street elevation at the property line, one story in addition to the number permitted in the district in which the lot is situated shall be permitted on the downhill side of any building.
- (b) In any district with a height limit of less than 50 feet, public and semipublic buildings, schools and churches, hospitals and other institutions permitted in the district may be erected to a height not exceeding 50 feet. The front, rear and side yards shall be increased one foot for each one foot by which the building exceeds the height limit established in this chapter for such district.
- (c) Height limitations set forth elsewhere in this chapter may be increased by 100 percent when applied to the following:
 - (1) Monuments.
 - (2) Flag poles.
 - (3) Cooling towers.
 - (4) Elevator penthouses.
- (d) Height limitations as set forth elsewhere in this chapter may be increased with no limitation when applied to the following; provided, that a conditional use permit is issued to increase height:
 - (1) Church domes, spires, belfries and roof ridges.
 - (2) Schools, colleges and university buildings.
 - (3) Chimneys or smokestacks.
 - (4) Television and radio broadcasting antennae.
- (e) Height limitations set forth in the R-3, R-4, B-2 and B-3 districts may be increased to six stories or 65 feet of height where the lot is not adjacent to, or closer than, 200 feet to any lot in any R-F, R-1 or R-2 district, and provided a conditional use permit is issued for such height increase, as required by this chapter.

Section 74-484.

Area Regulations.

No lot shall be so reduced that the area of the lot or dimensions of the open spaces shall be smaller than prescribed in this chapter.

Section 74-485.

Yard Regulations.

Measurements shall be taken from the nearest point of the wall of the building to the lot line in question, subject to the following qualifications:

- (a) Cornices, canopies or eaves may extend into the required front yard a distance not exceeding four feet, six inches.

- (b) Fire escapes may extend into the required front yard a distance not exceeding four feet, six inches.
- (c) A landing place or uncovered porch may extend into the required front 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 no higher than three feet may be placed around such place.
- (d) The architectural features enumerated in subsections (1) through (3) of this section may also extend into any side or rear yard to the same extent, except that no porch, terrace or outside stairway shall project into the required side yard distance, and except on existing lots that are 50 feet or less in width, in such instance, allowable architectural features may project into the required side yard a distance of two feet.
- (e) On double frontage lots, the required front yard shall be provided on both streets.
- (f) In the districts where filling stations are allowed, pumps and pump islands may be located within a required yard; provided that they are not less than 15 feet from any street right-of-way lines.
- (g) The required minimum side yard for churches shall be 25 feet from any residence lot line.
- (h) The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth which may cause danger to traffic on a street or public road by obscuring the view.
- (i) The required front yard of a corner lot shall be unobstructed above a height of two feet and below a height of seven feet above top of curb line in a triangular area, two sides of which are the lines running along the sides of the streets or the curb lines from the point of intersection of the two street lines as extended and a point 25 feet from such intersection and along each street line the third side of the triangle being the line between the latter two points. Also, boulevards between curb lines and right-of-way lines shall be unobstructed above a height of two feet and below a height of seven feet above the top of the curb line.
- (j) In determining the depth of rear yard for any building where the rear yard opens into the alley, one-half the width of the alley, but not exceeding ten feet, may be considered a portion of the rear yard, subject to the following qualifications:
 - (1) The depth of any rear yard shall not be reduced to less than ten feet by the application of this exception.
 - (2) If the door of any building or improvement, except a fence, opens toward an alley, it shall not be erected or established closer than a distance of 15 feet from the property line.

Section 74-486.

Garages.

No single-family or two-family dwelling shall be erected in any zoning district unless a garage, detached or attached and covering an area of at least 400 square feet, is also erected in the same parcel at the same time. A certificate of occupancy shall not be issued

by the building inspector until all the work for which the building permit was issued has been completed.

Section 74-487.

Trucks in Residential Districts.

- (a) For the purposes of this section, the following definitions shall apply:
- (1) Definitions in Minn. Stat. § 168.011, as amended, shall be adopted by reference.
 - (2) *Midsize vehicle* means any motorized vehicle or trailer more than eight (8) feet and up to nine (9) feet in height, or more than twenty-two (22) feet and up to twenty-five (25) feet in length, or more than 12,000 pounds and up to 15,000 pounds gross vehicles weight.
 - (3) *Oversize vehicle* means any motorized vehicle or trailer more than nine (9) feet in height, or more than twenty-five (25) feet in length, or more than 15,000 pounds gross vehicle weight.
 - (4) *Height* is measured from the ground to the highest point on the vehicle at recommended tire pressure. All accessories, attachments, and materials carried on the vehicle are considered part of the vehicle.
 - (5) *Length* is measured at the longest point of the vehicle or, if the vehicle is a trailer, the horizontal distance between the front and rear edges of the trailer bed. All accessories, attachments and materials carried on the vehicle are considered part of the vehicle.
- (b) One (1) midsize vehicle or trailer may be parked or stored on a residential property in accordance with off-street parking and loading regulations as regulated by Chapter 74, Article IX, Division 2.
- (c) One (1) oversize recreational vehicle/recreational equipment that is owned by the occupant of the premises may be parked or stored outside in a residence district in accordance with off-street parking and loading regulations as regulated by Chapter 74, Article IX, Division 2.
- (d) Farm trucks, semi-trailers, special mobile equipment, truck tractors, farm implements or tractors, trucks carrying or designed to carry explosive or flammable materials, buses operated for hire or for commercial purposes, and earth-moving equipment are prohibited from parking in residential zoning districts, regardless of the length, height or gross vehicle weight.
- (e) This section shall not prohibit vehicles or trailers, as described in subsection (b) through (d) of this section, from short-term parking of vehicles when loading, unloading, or rendering a service.
- (f) No auxiliary motors or engines on any vehicle or equipment shall be allowed to operate except when actively loading, unloading or performing a service.
- (g) The Zoning Administrator or his/her designee may grant an administrative waiver, in writing, to a resident to allow:

- (1) A resident to temporarily park or store an oversized vehicle outside at their place of residence once per year for a period of up to seven (7) days.

Section 74-488.

Walls, fences, and hedges.

- (a) A fence is defined, for the purpose of this section, as any partition, structure, wall, or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard. For the purpose of this section, a fence shall not include naturally growing shrubs, trees or other foliage.
- (b) No fence shall be erected or substantially altered in the city without securing a permit from the building inspector. All such permits shall be issued upon a written application which shall set forth the type of fence to be constructed, the material to be used, height, and exact location of the fence. A fee as determined by the City Council shall be paid with each application.
- (c) Fences, when constructed to enclose any lot or tract of land, shall be located in such a way that the entire fence shall be on the property of the owner. Posts and framework shall be placed within the property lines of the owner and the actual fencing material, such as chain link, lumber, pickets, etc., shall be placed on the side of the fence which faces the street or adjacent property.
- (d) No fence shall be allowed or constructed on street rights-of-way. Fences may, by permit, be placed on public utility easements so long as the structures do not interfere in any way with existing underground or over ground utilities. The City or any utility company have authority to use such easements, shall be not be liable for repair or replacement of such fences in the event they are moved, damaged or destroyed by virtue of the lawful use of such easement.
- (e) In single and two-family residential districts, no fence may exceed four feet in height above the ground level, in front of the front line of the residential structure, along any street or highway right-of-way, or in the front yard as defined by this chapter. In these two districts, fences along the side lines to the rear line, including rear lines abutting street or highway right-of-way, may not exceed six feet in height above the ground level.
- (f) The required front yard of a corner lot shall not contain any fence which may cause danger to traffic on a street or public road, by obscuring driver's view. On corner lots, no fence shall be permitted within the intersection sight distance triangle.
- (g) Off-street parking and loading zones and landscaped areas for nonresidential and for multiple-family residential development adjoining one- or two-family residence districts shall be screened by a minimum of six-foot high fence and/or a planting buffer screen. Plans of such screen or fence shall be submitted for approval as part of the site plan review by the Planning Commission and the City Council. Such plans shall be part of the application for a building permit and such fence or landscaping shall be installed as part of the initial construction and be maintained in a sightly condition, compatible with the surrounding area.
- (h) Every fence shall be constructed in a workmanlike manner and of substantial material reasonably suited to the purpose for which the fence is to be used. Cloth or canvas fences shall not be allowed. Barbed wire is not allowed in any residence district but may be installed in commercial or industrial districts with

approval by the building inspector. Every fence shall be maintained in a condition of good repair and shall not be allowed to become and remain in a condition which would constitute a public nuisance or a dangerous condition. The building inspector is authorized to notify the owner or owners of the condition and allow owner or owners 60 days in which to repair or demolish the fence.

- (i) Fences shall be constructed in conformity with the wind, stress, foundation, structural and other requirements of the state building code when applicable.

Section 74-489.

Tree Preservation.

- (a) Standards of Preservation During Construction or Grading
 - (1) Intent. Developments, structures, utilities, and all other site activities must be designed, installed, and constructed so that the maximum numbers of trees are preserved on all lots or parcels.
 - (2) For the purpose of this section, a significant tree shall be defined as any live, healthy tree measuring eight (8) inches in diameter or greater, measured at 4.5 feet above the ground.
 - (3) Tree Preservation Plan Required. To minimize tree loss and to mitigate tree removal on wooded lots or parcels with trees, a tree preservation plan must be submitted for approval along with any land disturbance permit, grading permit, site plan, or plat approval. All site activity associated with the proposed permit or plat must be in compliance with the approved tree preservation plan.
 - (4) Tree Preservation Plan. A registered architect, landscape architect, forester, or engineer must prepare the tree preservation plan. The plan must include a scaled drawing or survey including the following information:
 - a. A tree inventory indicating the amount, species, location and condition of all existing significant trees and clumps of non-significant trees within the limits of the proposed activity.
 - b. Identification of significant trees to be protected, preserved, undisturbed or to be removed.
 - c. Location of existing and proposed structures, improvements, utilities and existing and proposed contours.
 - d. Protection techniques that will be utilized to minimize disturbance to all trees remaining on site. Trees must be protected from direct and indirect root damage and trunk and crown disturbance. The following preservation standards apply:
 1. Construction activities including parking, material storage, dirt stockpiling, concrete washout and other similar activities must be done as to not damage or destroy a significant tree.

2. Protective fencing must be installed around trees that are not being removed. Such fences must be at least four feet high and must consist of polyethylene safety fencing. Fencing must remain in place until construction is completed or other landscaping has been installed and the City Forester has approved the removal of the fencing.

e. A tree replacement plan indicating size, species, location, and planting specifications of all street and replacement trees.

(5) Tree Replacement.

a. Each significant tree removed or damaged through construction or grading, or found to have been damaged within one (1) year after completion of construction, must be replaced on-site at a ratio of 1:1 except for:

1. Non Residentially Zoned Property: In no case need the tree replacement density exceed eight (8) trees per acre in non-residentially zoned districts.

2. Residential Zoned Property: In no case need the tree replacement density exceed eight (8) trees per acre on lots one (1) acre or more or subdivisions that occur on unplatte land over one (1) acre. On residentially zoned lots less than one acre, a one to one (1:1) replacement of all trees will be required for the first seven (7) trees removed from the lot.

3. Significant trees removed that the City Forester determines to be undesirable, invasive, or diseased shall not need to be replaced.

b. Street trees shall not be counted towards the number of replacement trees required on a site.

c. Replacement trees shall be a minimum 2 1/2 inches in diameter if deciduous, or six (6) feet in height if coniferous, measured at 4.5 feet above ground, and shall be a species similar to those which were destroyed unless otherwise required by the City Forester. Replacement trees shall be balled and burlap.

d. Mississippi River Control Corridor/Rum River Corridor. Any lands within the Mississippi River Control Corridor/Rum River Corridor shall meet tree replacement/preservation regulations set forth in Article VI, Division I, Section 74-287 of this chapter.

(6) Tree Replacement Fee. If the developer is unable to replace the required amount of trees due to physical circumstances unique to the site, a tree replacement fee in an amount established by the City Council shall be paid in lieu of tree replacement.

- (7) Trees on Public Property. Trees on public property shall be regulated by Chapter 70, Article IV, Trees On Public Property.
- (8) Inspection and Enforcement. Prior to commencement of site grading or excavation, the site shall be staked and fenced for tree protection per the approved tree preservation plan. Construction activities shall cease until compliance with the tree preservation plan has been achieved. Violations of this section shall be considered a misdemeanor.

Sections 74-490

Metal Roof.

- (a) Prefinished metal roofs are permitted in all districts provided:
 - (1) The metal roof shall not have exposed fasteners, semi-concealed fasteners, or any fastener system that does not adhere directly to the support system.
 - (2) Any metal roof that is not a high-quality commercial thickness/weight according to the Building Code is prohibited.
 - (3) Any metal roof that has not been treated with a factory applied color-coating system is prohibited.
 - (4) Must have a color retention guarantee minimum of 20 years.
 - (5) There shall be no open ended rivets or seams where the roofline meets the fascia.
- (b) Single family homes, townhomes and rowhomes shall be allowed to use slate, shingle, shake, tile, or similar design pre-finished metal roofs. Standing seam metal roof design is not allowed on single family homes, townhomes, and rowhomes, **with the exception of copper accents or trim.**



Section 74-491. Temporary Accessory

Buildings.

- (a) Definitions.

Temporary accessory building. A building used for a temporary purpose which has a roof but is without a foundation or footings, is designed to be removable, and is not designed to be permanently attached to the ground, to another structure, or to any utility system. Such buildings are typically constructed of a canvas or other fabric over a PVC, metal or wood frame.

- (b) One temporary accessory building is permitted on each parcel in all residential districts, subject to the following standards:
- (1) A temporary accessory building permit must be obtained.
 - (2) The area of the temporary accessory building will be included in the impervious surface calculations for the property.
 - (3) The size of the temporary accessory building shall not exceed 12' x 26'.
 - (4) The temporary accessory building shall be securely anchored to withstand the weather and prevent against collapsing.
 - (5) The temporary accessory building shall be placed in the rear yard, a minimum of five feet (5') from either the side or rear lot line. For riparian lots, the temporary building must be placed on the river side of the property and must meet the structure setback requirements from the river or placed no closer than that of the existing primary structure if the primary structure does not meet setback requirements. In the case of a corner lot, a temporary accessory building may be located in a side yard.
 - (6) The temporary accessory building can be placed on the site for a period of no more than six (6) months per calendar year. In cases where weather prevents timely removal, one 30-day extension may be granted administratively. Such extension shall require an extension permit.
 - (7) The temporary accessory building must be constructed of durable, fire retardant materials.
 - (8) The temporary accessory building shall not exceed the height of any other accessory structures on the site or 15', whichever is less.
 - (9) For purposes of this Section, tents and canopies erected for events, weddings, family gatherings, etc. are not required to get a temporary building permit if erected for a period of two weeks or less.
 - (10) All applicable requirements of the State Building Code and the State Fire Code shall be met.
 - (11) Materials stored in the temporary accessory building must meet the standards of the State Fire Code.
 - (12) The temporary accessory building must remain in good repair throughout the time it is erected on the site. Frames without a covering are not permitted.
 - (13) A temporary accessory building erected on a site shall be counted toward the maximum number of accessory buildings allowed by this Ordinance.
 - (14) A pre-existing temporary accessory building that existed prior to August 21, 2015, and that is in compliance with this Section is permitted until November 1, 2016 and is not subject to Section 74-491(b)(6) until said date, at which point any pre-existing temporary accessory building must meet all regulations set forth in this Section. Any temporary accessory building installed after August 21, 2015 must meet all regulations set forth in this Section.

Section 74-492. Accessory Structure Administrative Site Plan Approval

- (a) For the purpose of enforcing this Chapter, an accessory structure site plan approval shall be required of all persons intending to erect, alter, or place any building or structure that is otherwise exempt from needing a building permit under MN Statute 1300.0120, Subp. 4, A.(1) .
- (b) The accessory structure site plan review shall be approved by the zoning administrator or their designee upon a written finding that the proposal meets the requirements of the applicable zoning district and is in compliance with the relevant ordinance standards.
- (c) Administrative site plan approval shall be processed according to the procedures and criteria set forth in City Code Chapter 74, Section 74-38 (g).
- (d) Application materials. The person seeking site plan approval must fill out and submit to the zoning administrator a completed application. The review fee shall be established by the City Council and recorded in the Anoka Fee Schedule. The applicant shall submit the following information as part of the application:
 - (1) A site plan showing the following information:
 - a. Location and dimensions of lot lines, buildings, driveways, off-street parking spaces, sidewalks, patios, and other forms of impervious lot coverage as determined by the zoning administrator.
 - b. Distances between buildings.
 - c. Front, side, and rear lot lines with dimensions.
 - d. Location of any easements or underground utilities.
 - e. Other information deemed necessary to determine compliance with City Code.
 - (2) A narrative describing how the structure will be used.
 - (3) A signed statement by the applicant stating that they are aware that Anoka City Code prohibits residential occupancy and home occupations in accessory structures.
 - (4) Any other information requested by the zoning administrator in order to allow a reasonable review of the requested proposal.

Sections 74-493—74-505.

Reserved.

ARTICLE IX. **Supplemental Regulations**

DIVISION 2. **Off-Street Parking and Loading.**

Section 74-506. **Application of parking and loading regulations.**

The regulations and requirements set forth in this division shall apply to all off-street parking facilities including driveways, parking lots and storage areas, in all zoning districts of the City unless otherwise exempted in this chapter.

Section 74-507. **Site plan drawing necessary.**

All applications for a building permit, driveway permit, or certificate of occupancy in all zoning districts shall be accompanied by a site plan drawn to scale indicating the location and dimensions of the driveway, off-street parking and loading spaces, and storage areas and a description of materials to be used in compliance with the requirements set forth in this chapter. All applications shall be submitted to the Planning Department. The Planning Department will distribute the application to the appropriate department(s) for review and will issue the permit.

Section 74-508. **Minimum area regulations.**

Each parking space shall be the following size or larger based on the angle of parking:

<u>Angle of Parking</u>	<u>Stall Width</u>	<u>Stall Depth to Curb</u>	<u>Traffic Flow Direction</u>	<u>Drive Lane Width</u>
<u>45°</u>	<u>9'</u>	<u>22'</u>	<u>One-way</u>	<u>14'</u>
<u>60°</u>	<u>9'</u>	<u>21'</u>	<u>One</u>	<u>16'</u>
<u>75°</u>	<u>9'</u>	<u>21'</u>	<u>One</u>	<u>18'</u>
<u>90°</u>	<u>9'</u>	<u>18'</u>	<u>Two-way</u>	<u>24'</u>

Exceptions may be made for compact vehicle spaces under the following conditions:

- (a) The design promotes compact car stall use (e.g. designing all compact stalls at the entrance of the lot).
- (b) All compact car stalls are clearly designated by signage.
- (c) No more than 40 percent of all required parking stalls are designated for compact cars. Each compact parking space shall be no less than eight (8) feet by eighteen (18) feet.

Section 74-509. **Computing requirements.**

In computing the number of parking spaces required, the following rules shall govern:

- (a) Floor space shall mean the gross floor area of the specific use.
- (b) When determining the number of off-street parking spaces, fractional results of one-half or more shall constitute another space.

- (c) The parking space requirement for a use not specifically mentioned in this article shall be the same as required for a use of similar nature as determined by the City Planning Commission.
- (d) In stadiums, sports arenas, churches, and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 22 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements.

Section 74-510.

Reduction and use of parking and loading space.

When demonstrated to the satisfaction of the City Council that up to ten percent of the number of parking spaces required by this ordinance would not be needed for the particular use in question, a reduced number of parking spaces may be approved subject to the following:

- (a) The application for reduction shall be accompanied by supporting data specifically applying to the particular use in question.
- (b) The applicant must also provide each of the following:
 - (1) A detailed parking plan demonstrating that the parking otherwise required by this ordinance can be provided on the site within ordinance design standards; and
 - (2) A covenant in recordable form, approved as to form and content by the City attorney, executed by all property owners, which covenant provides that the owners, heirs, successors and assigns, will not use the area identified for expansion parking for any use except landscaping or to cause compliance with the off-street parking requirements of this chapter.
- (c) The City may order installation of previously exempted parking spaces at any time when, in the City's judgment, conditions indicate the need for such parking, and the property owner shall comply with such order.

Section 74-511.

Fences and planting screens.

Off-street parking and loading areas located in commercial, industrial, and multiple-family districts and adjoining residence districts shall be screened by a minimum six-foot high fence, wall or a planted buffer screen; plans of such screen, fence, or wall shall be submitted for approval as part of the application for a building permit, and such fence, wall or landscaping shall be installed as a part of the initial construction.

Section 74-512.

Access.

- (a) Parking and loading space shall have proper access from a public right-of-way.
- (b) The number and width of access drives shall be so located as to minimize traffic congestion and traffic hazard.

Section 74-513.

Location of parking facilities.

All off-street parking facilities required by this ordinance shall be located and restricted as follows:

- (a) Required off-street parking shall be on the same lot under the same ownership as the principal use being served, or within 200 feet pedestrian travel distance thereof.
- (b) Head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited, except for single-family, two-family, townhouses, and quadhome dwellings and public safety buildings.
- (c) The boulevard portion of the street right-of-way shall not be used for parking.

Section 74-514.

Parking lots in residential districts.

When in its opinion the best interests of the community will be served thereby, the City Council may permit, temporarily or permanently, the use of land in a residential district, other than the single- and two-family residential districts, for a parking lot provided that:

- (a) A conditional use permit is issued under article IV, division 3 of this chapter.
- (b) The lot is not to be used for sales, storage, repair work or servicing of any kind.
- (c) Entrance to and exit from the lot are to be located on the lot.
- (d) No advertising sign or material is to be located on the lot.
- (e) All parking is to be kept back of the setback building line by barrier unless otherwise specifically authorized by the City Council.
- (f) All lighting is to be arranged so that there will be no glare there from annoying to the occupants of adjoining property in a residential.
- (g) Surfacing of the parking lot is to be smoothly graded, hard surfaced and adequately drained.
- (h) Any other conditions, such as screening, as may be deemed necessary by the City Council to protect the character of the residential district.
- (i) A parking lot may not be constructed for use by single or two family dwellings.
- (j) The City Council shall review parking lots in residential districts annually to determine suitability for continued use.

Section 74-515.

Yards.

Off-street parking and loading facilities shall be subject to the front yard, side yard, and rear yard regulations for the use district in which the parking is located; except that in the classes of B-1, B-2 business districts and industrial districts, no off-street parking or loading shall be located within ten feet of any property line that abuts a street right-of-way or any of the classes of residence districts and; except that in the classes of R-3 and R-4 residence districts no parking or loading shall be located within five feet of any property line.

Section 74-516.

Combined facilities.

- (a) Off-street parking facilities for a combination of mixed buildings, structures or uses may be provided collectively in any business or industrial district in which separate parking facilities for each separate building, structure or use would be required, provided that the total number of spaces provided shall equal the projected peak hour parking demand of the combined uses, subject to the following special conditions:
 - (1) With a conditional use permit as issued under article IV, division 3 of this chapter.
 - (2) The owner of the property affected along with the operators of all businesses to utilize the combined parking facilities shall join in the permit application.
 - (3) The proposed parking plan shall realistically project peak use of the combined facilities based upon the proposed uses, and shall provide adequate spaces for that peak demand.
 - (4) All off-street parking facilities shall be located within 200 feet of the building or use for which the permit is issued.
 - (5) A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities duly approved as to form and manner of execution by the city attorney, shall be filed with the City Clerk.
- (b) A conditional use permit for combined parking facilities shall restrict the uses of the affected property to those designated in the permit until and unless the permit is amended or rescinded. Such a permit may be revoked if parking demand for the combined uses exceeds the capacity of the combined facilities; however, the use restrictions of the permit shall remain in effect after such a revocation until and unless they are specifically removed by council resolution to that effect.

Section 74-517.

Construction and maintenance standards applicable to all driveways.

- (a) Definitions.

Driveway. For purposes of this Chapter, “driveway” is defined as the portion of a lot that is designed to provide vehicular access between a road or alley and a parking or loading space, including the driveway apron.

- (b) A driveway permit shall be required for replacing, constructing, improving, expanding, resurfacing, or altering driveways, driveway aprons, and parking areas unless otherwise approved through a site plan process or other city approval. An application for a driveway permit shall be submitted to the City’s Planning Department. The Planning Department will route the permit to the appropriate department(s) for review and will issue the driveway permit.

- (c) In all zoning districts, parking areas and driveways shall be paved with asphalt or concrete and designed to prevent damage to adjacent properties by surface water runoff and to minimize the amount of paved areas on the site.

The following driveways are exempt from this requirement upon approval of the City Engineer:

1. Driveways serving a recreational area.
 2. Driveways constructed of alternative materials that function similarly to those listed in this subpart (c) of this section.
 3. Storage areas for heavy construction equipment that would damage the pavement. Such storage areas shall have an approved maintenance and drainage plan.
- (d) The City shall have the right to review and inspect all driveway construction.
- (e) Driveways shall have a maximum slope of eight percent (8%) unless otherwise approved by the City Engineer.
- (f) Porous pavers or porous paving systems may be used upon approval of the City Engineer.
- (g) Driveways and parking areas shall comply with the impervious surface and lot coverage restrictions of the zoning district within which it will be constructed.

Section 74-518.

Striping.

Except for single-family, two-family, townhouses, and quadhome dwellings, all paved parking stalls shall be marked with white or yellow painted lines not less than four inches wide and shall be properly maintained.

Section 74-519.

Lighting.

- (a) All off-street parking areas for residential uses of 12 or more spaces and all off-street parking for commercial, industrial, institutional, and public uses shall be equipped with operable lighting designed to illuminate the entire surface of the parking area.
- (b) Any lighting used to illuminate the off-street parking area shall be arranged as to reflect the light away from any adjacent properties, streets, or highways.

Section 74-520.

Reserved.

Section 74-521.

Reserved.

Section 74-522.

Required number of off-street parking spaces.

Off-street parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. The minimum number of required off-street parking spaces for the following uses shall be as follows in all zoning districts in the City, except the B-3, central business district:

- (a) Automobile service station: Four parking spaces plus two parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.
- (b) Automobile sales, trailer sales, marine and boat sales, implement sales, garden supply stores, building materials sale, and auto repair: Six parking spaces plus one parking space for each 500 square feet of floor area over 1,000 square feet.
- (c) Assembly or exhibition hall, auditorium, theater, or sports arena: One parking space for each four seats, based upon design capacity.
- (d) Banks: At least one parking space for each 400 square feet of floor area.
- (e) Bed and breakfasts: One space per guest room and two for management.
- (f) Boardinghouse and lodging house: At least three parking spaces plus one parking space for each three persons for whom living accommodations are provided.
- (g) Bowling alleys: At least seven parking spaces for each alley, plus such additional spaces as may be required for affiliated uses.
- (h) Car wash: In addition to required stacking spaces:
 - (1) Automatic drive-through, service: Ten spaces or one space for each employee on the maximum shift, whichever is greater.
 - (2) Self service: A minimum of two spaces.
 - (3) Service station with car wash: No additional to that required for the station.
- (i) Churches: One parking space for each four seats, based on the design capacity of the main seating area.
- (j) Convalescent or nursing homes: One parking space for each four beds for which accommodations are offered.
- (k) Drive-in establishment and convenience food: One parking space for each 150 square feet of gross floor area, but not less than 15 spaces.
- (l) Furniture and appliance stores, stores for repair of household equipment or furniture: At least one parking space for each 600 square feet of floor area.
- (m) Golf course, golf clubhouse, country club, swimming club, tennis club, public swimming pool: Twenty spaces plus one space for each 300 square feet of floor area in the principal structure.
- (n) Hospitals: One parking space for each three hospital beds, plus one parking space for each employee on the major shift.
- (o) Miniature golf course, archery range or golf driving range: Ten parking spaces.
- (p) Motels, hotels: One space per each rental unit plus one space for each ten units and one additional space for each employee on any shift.

- (q) Municipal administration buildings, community centers, public libraries, museums, art galleries, post offices, and other municipal service buildings: Ten parking spaces plus one parking space for each 500 square feet of floor area in the principal structure.
- (r) Private clubs and lodges: One parking space for each 2½ seats.
- (s) Professional offices, medical, dental clinics and animal hospitals: One space for each 200 square feet of floor area but not less than three spaces per lot design.
- (t) Residential uses:
 - (1) Single-family dwelling: Enclosed garage of at least four hundred forty (440) square feet.
 - (2) Two-family and quadhomes: A minimum of two (2) spaces per dwelling unit and an enclosed garage of at least four hundred (400) square feet.
 - (3) Townhouse: A minimum of two (2) spaces per unit. At least one (1) space per unit shall consist of an enclosed garage.
 - (4) Multiple dwelling: A minimum of two and one-half (2½) spaces per unit. At least one (1) space per unit shall consist of an enclosed garage.
- (u) Restaurants, cafes, private clubs serving food and/or drinks, bars, or nightclubs: One space for each 40 square feet of gross floor area of dining and bar area and one additional space for each 80 square feet of kitchen area.
- (v) Shopping center: In a B-2 shopping center district where several business uses are grouped together according to a general development plan, off-street automobile parking shall be provided in a ratio of not less than four spaces per 1,000 square feet of gross leasable area, and separate off-street space shall be provided for loading and unloading.
- (x) Sporting and health clubs: One space per 100 square feet of building area, plus six spaces per tennis/racquetball or other type of court.
- (y) Supermarkets, discount houses, mail order outlets, retail stores, and other stores with high customer volume: At least one parking space for each 250 square feet of floor area.
- (z) Other uses: Other uses not specifically mentioned in this section shall be determined on an individual basis by the City Council. Factors to be considered in such determination shall include (without limitation) size of building, type of use, number of employees, expected volume and turnover of customer traffic, and expected frequency and number of delivery or service vehicles.

Section 74-523.

Parking regulations for single-family and two-family residences.

- (a) No owner or tenant of a single- or two-family residential property shall allow any motor vehicle or trailer to be parked on such property except on a driveway, within a garage, or on the side or rear yard area of the property as specifically permitted in subsection (c) of this section. Every motor vehicle or trailer that is

parked outside of a garage shall display license plates with current registration tabs. No vehicle or trailer shall be permitted to park in the sight triangle which is required to be unobstructed by subsection 74-485(9). With regard to outdoor parking, storage or repair of trucks and equipment, see Section 74-487.

- (b) No more than four motor vehicles, trailers, or combination thereof shall be permitted to park on the driveway or driveways of any single-family residential property on more than two days within any one-week period, except when a waiver is obtained as provided in this chapter. Upon application to the zoning administrator, waiver of this restriction may be obtained for a reasonable, necessary, and discreet time period, not exceeding two weeks for social guest parking, and not exceeding 90 days for the demolition of an existing garage and construction of a new one.
- (c) Two motor vehicles or trailers per dwelling unit may be parked on the side or rear yard of the property, off the driveway, at least five feet from the property line, provided that the area around and under the motor vehicle or trailer is maintained in a neat and orderly manner, including keeping weeds and grass in the area mowed to a height of six inches or less.
- (d) For purpose of this section, the term "motor vehicle" includes any self-propelled vehicle which is required to be registered with the State Department of Motor Vehicles and to display a license plate in order to be legally operated on public streets; it does not include snowmobiles; the term "trailer" includes any vehicle designed for transporting property or passengers on its own structure and for being drawn by a self-propelled vehicle.
- (e) The property owner's or tenants' first violation of this section shall be a misdemeanor. The principal occupant of the property shall be responsible for compliance with subsections (a), (b) and (c) of this section. The records of the City Water Department indicating the person responsible for payment of City water bills shall constitute *prima facie* evidence of the identity of the principal occupant. Such evidence may be rebutted by a lease or a property owner's sworn statement which indicates the primary occupant of the property. The owner of the property, according to the records of the tax assessor, shall be responsible for compliance with subsection (d) of this section.

Section 74-524.

Driveways and parking areas standards for single-family and two-family residences.

- (a) The driveway outside the public right of way will be limited to the width of the garage plus ten feet (10') or a maximum of twenty feet (20') in width if no garage exists or the maximum width of the garage for three (3) stall garages or larger.
- (b) Driveways and parking areas shall be at least five feet (5') from property lines, except for the access to the street. Additional driveway and parking area setbacks may be required from public right-of-ways and to avoid encroaching into existing public drainage and utility easements.
- (c) Parking areas shall not be constructed in the front yard, except driveways.
- (d) The minimum driveway width in the public right-of-way shall be 12 feet (12'). The maximum driveway width in the public right-of-way shall be the width of the main garage plus four feet (4'), not to exceed twenty-four feet (24'). The

curb returns (radii or tapers) for the access to the street (driveway apron) are not included in the driveway width.

- (e) Shared driveways are allowed, provided that property owners sharing the driveway have easements and agreements relating to cross access and maintenance. Shared driveways do not need to meet the five foot (5') setback required under Section 74-524(b) along the shared property line.
- (f) Driveway aprons shall be concrete, at least six inches (6") thick, at least three (3') feet wide from the back of the street curb. Where a sidewalk exists, the driveway apron shall be constructed through the sidewalk. The sidewalk portion of the driveway shall meet ADA cross grade standards.
- (g) The driveway entrance at the gutter line shall be constructed in a manner that does not interfere with street drainage.
- (h) Driveways and parking areas shall be concrete, bituminous, brick pavers or similar hard surface. Concrete driveways and parking areas shall be a minimum of four inches (4") thick installed over a prepared, approved subgrade. Bituminous driveways and parking areas shall be a minimum of two inches (2") thick over , installed over a Class V base a minimum of four inches (4") thick upon a prepared, approved subgrade.
- (i) Driveways on improved single- or two-family residential properties existing on or before October 1, 1992, shall be paved with asphalt, concrete, brick, or similar surface at such time as a building permit may be taken for either remodeling or improvements costing more than \$5,000.00.
- (j) New driveways shall be constructed in such a way as to provide positive storm water drainage from the garage or parking area to the street or an approved storm water drainage area.
- (k) Each single family or duplex property is entitled to only one (1) driveway from a public right of way unless it can be demonstrated that an additional driveway improves traffic safety/circulation for the general public.

Section 74-525.

Standards for driveway and parking areas serving multi-family, commercial, industrial and non-residential uses.

- (a) Driveway location is subject to review for traffic impacts such as volume generated, adjacency to stop signs, speed of cross traffic, noise, and the applicant's operating schedule.
- (b) Where a lot abuts two (2) or more public right of ways, the City may require access to be from the least traveled right of way if such least traveled right of way does not direct traffic through a residential area.
- (c) In cases where a driveway serves a property not within the City of Anoka jurisdictional boundary, a joint powers agreement for maintenance and improvements to the roadway must be in place before permission will be granted to allow access to the adjacent street. The City of Anoka reserves the right to reject or restrict any proposal to allow access from City of Anoka streets to multifamily, commercial, industrial or non-residential uses located in adjoining cities.

- (d) The operator of a principal building or use shall maintain parking and loading areas, driveways, and yard areas in a neat and orderly manner.
- (e) Curbing.
 - 1. All driveway areas and parking areas which are accessory to multiple family, commercial, industrial or non-residential developments shall be bounded by concrete curb and gutter of a minimum of B612 design. Unless a driveway is constructed providing access from the street to an accessory structure. Higher designs (i.e. wider gutters) may be necessitated by design circumstances.
 - 2. Driveway areas and parking areas which are accessory to low-use development shall be bounded by concrete curb and gutter a minimum of B612 design on the portions of such areas which front on a public right of way extending to the wall. Concrete curb and gutter or curb only may be required of any other driving or parking areas where necessary for drainage or traffic control. "Low-use" development shall include churches, park, private clubs and similar uses.
 - 3. The City may exempt curbing where the City has approved future expansion of the parking lot or to enhance traffic circulation where there are adjoining lots.
 - 4. Poured-in-place concrete traffic safety islands may be required to maintain a safe and orderly flow of traffic within the parking lot.
 - 5. Curb cuts and ramps for the handicapped shall be installed as required by state law.
- (f) Driveways and parking areas shall be concrete, bituminous, brick pavers or similar hard surface material. Section design shall be submitted for review and approval of the City Engineer. Driveway approach panels shall be a minimum of eight inches (8") thick to the right of way line.
- (g) The maximum width of a driveway shall be thirty feet (30').
- (h) Driveway aprons shall be concrete, at least eight inches (8") thick, at least three (3) feet wide from the back of the street curb of the street. Where a sidewalk exists, the driveway apron shall be constructed through the sidewalk. The sidewalk shall be replaced with at least an eight inches (8") thick concrete portion of the driveway and shall meet ADA cross grade standards.

Sections 74-526—74-540.

Reserved.

ARTICLE IX. Supplemental Regulations

DIVISION 3. Telecommunication Towers

Section 74-541. Purpose and Intent.

- (a) In order to accommodate the communication needs of residents and businesses while protecting the public health and safety, and general welfare of the community, the City Council finds the regulations of this division are necessary to:
 - (1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the City;
 - (2) Minimize adverse visual effects of wireless telecommunication towers through careful design and siting standards;
 - (3) Avoid potential damage to adjacent properties from wireless telecommunication tower failure through structural standards and setback requirements; and
 - (4) Maximize the use of existing and approved towers, buildings and structures to accommodate new wireless telecommunication antennae to reduce the number of towers needed to serve the community.
- (b) This division is intended to regulate wireless telecommunication towers and is not intended to regulate other types of towers such as audio and television antennae, residential satellite dishes or public safety transmitters.

Section 74-542. Definitions.

The following words and terms, when used in this division, shall have the following meanings unless the context clearly indicates otherwise:

Antenna means any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennae, such as panels, microwave dishes, and satellite dishes, and omni-directional antennae, such as whip antennae.

Co-location means the placement of wireless telecommunication antennae by two or more service providers on a tower, building or structure.

Federal Communications Commission means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

Guyed tower means a tower that is supported, in whole or in part, by wires and ground anchors.

Lattice or self-supported tower means a tower, erected on the ground, which consists of metal crossed strips or bars to support antennae and related equipment.

Monopole tower means a single, self-supported pole-type tower, tapering from the base to the top and supporting a fixture designed to hold one or more antennae.

Multi-user tower means a tower to which is attached the antennae of more than one service provider or governmental entity.

Protected residential property means any property within the City that meets both of the following requirements:

- (a) The property is zoned R-1, R-2, or R-3 and the property may or may not also have a planned unit development overlay classification; and
- (b) The property is designated on the comprehensive plan land use map as low-density residential, medium-density residential or high-density residential.

Public utility means persons, corporations, or governments supplying gas, electric, transportation, water, or landline telephone service to the general public. For the purpose of this Article, wireless telecommunication service facilities shall not be considered public utility uses and are defined separately.

Service provider means any individual or entity which provides wireless telecommunication services.

Single-user tower means a tower to which is attached only the antennae of a single service provider, although the tower may be designed to accommodate the antennae of multiple users as required in this division.

Tower means any ground or roof mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting or supporting an antenna, or antenna for wireless telecommunication purposes which is taller than 15 feet, including roof antennas.

Wireless telecommunication services means licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Section 74-543.

Effect of division on existing towers and antennae.

Antennae and towers in existence as of November 7, 1997, which do not conform or comply with this division are subject to the following provisions:

- (a) Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this division.
- (b) If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this section; however, if the cost of repairing the tower to its former use, physical dimensions, and location would be 50 percent or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this division.

Section 74-544. Application, building permits, fees and inspections.

- (a) *Application.* Applications for approval to construct towers shall include information as required in section 74-37. In addition to the information required elsewhere in this division, applications for towers shall include the following supplemental information:
- (1) A report from a licensed professional engineer which:
 - a. Describes the tower height and design including a cross section and elevation;
 - b. Documents the height above grade for all potential mounting positions for co-located antennae and the minimum separation distances between antennae;
 - c. Describes the tower's capacity, including the number and type of antennae it can accommodate;
 - d. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - e. Includes an engineer's stamp and registration number; and
 - f. Includes other information necessary to evaluate the application.
 - (2) A letter of intent committing the tower owner and the owner's successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
 - (3) Applications requiring conditional use permits shall be subject to the requirements set forth in section article IV, division 3 of this chapter, excepting section 74-114.
- (b) *Building permits.*
- (1) It shall be unlawful for any person to erect, construct in place, place or re-erect, replace, or repair any tower without first making application to the building inspections department and securing a building permit therefore as provided in subsection (b) of this section.
 - (2) The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.
 - (3) Only one tower shall exist at any one time on any one parcel of protected residential property as defined in section 74-542.
 - (4) Building permits are not required for:

- a. Adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.
 - b. Antennae and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations. Temporary antennae shall be removed within 72 hours following installation.
- (5) Before issuance of a building permit, the following information shall be submitted by the applicant:
- a. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration; and
 - b. A report from a State licensed professional engineer which demonstrates the tower's compliance with structural and electrical standards.
- (6) Any City cost of testing or verification of compliance shall be borne by the applicant.
- (c) *Fee.* The fee to be paid is that prescribed by the Council.
- (d) *Inspections.* Towers may be inspected by an official of the building department to determine compliance with original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this section. Notice of violations will be sent by registered mail to the owner of the tower and the property upon which it is located who will have 30 days from the date notification is issued to make repairs. Upon completion of the repairs, the owner shall notify the building inspector that the repairs have been made.

Section 74-545.

Permitted and conditionally permitted towers.

- (a) *Permitted towers.* The following towers are permitted in all zoning districts if in compliance with the performance standards set forth in section 74-546:
- (1) Towers located in the following locations:
- a. Church sites, when camouflaged as steeples or bell towers;
 - b. Park sites, when compatible with the nature of the park; and
 - c. Government, school, utility and institutional sites.
- (2) Wall or roof-mounted towers.
- (b) *Tower as conditional use.* Towers, other than those listed in subsection (a) of this section, are permitted in all zoning districts upon issuance of a conditional use permit as follows: Commercial towers other than those listed in subsection (a)(2) of this section.
- (c) *Conditional use permit standards.* The following standards apply to a conditional use permit for a tower:

- (1) The site must comply with the performance standards set forth in section 74-546.
 - (2) No employees of the service providers shall be located on the site on a permanent basis. Employees may be on the site to perform periodic maintenance.
 - (3) If the proposed tower is located in a residential district, documentation must be included in the application that demonstrates that the tower cannot reasonably be located in a commercial or industrial district.
 - (4) Existing on-site vegetation shall be preserved to the maximum amount practicable.
 - (5) No outdoor storage shall be permitted on the tower site.
- (d) *Towers located within boundaries to blend in with surrounding environment.* Towers located within the boundaries of the Mississippi River Corridor Critical Overlay District shall be designed and constructed to blend in with the surrounding environment.

Section 74-546.

Performance Standards.

All towers erected within the City must conform to the applicable performance standards contained in this section.

- (a) *Co-location requirements.* All towers erected, constructed or located with the City shall comply with the following requirements: A proposal for a new tower shall not be approved unless the City Council finds that the wireless telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, building or structure within a one mile radius except that the radius shall be one-half mile for towers between 80 and 120 feet and one quarter mile for towers under 80 feet of the proposed tower due to one or more of the following reasons:
 - (1) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - (2) The planned equipment would cause interference materially impacting the usability of other existing equipment at the tower or building as documented by a licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - (3) Existing or approved towers or buildings within the radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed professional engineer.
 - (4) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(b) *Construction and maintenance of towers.*

- (1) Tower and antenna design requirements. Proposed or modified towers and antennae shall meet the following design requirements:
 - a. Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
 - b. Towers shall be of a monopole design unless the City Council determines that an alternative design would better blend in to the surrounding environment. Lattice tower designs may be allowed to facilitate co-location.
 - c. The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other designs.
 - d. The base of the tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.
- (2) Tower construction requirements. All antennae and towers erected, constructed, or located within the City, and all wiring therefore, shall comply with the following requirements:
 - a. All applicable provisions of this division must be met.
 - b. Towers shall be certified by a State licensed professional engineer to conform to current structural standards and wind loading requirements of the state building code and the Electronics Industry Association.
 - c. With the exception of necessary electric and telephone service and connection lines approved by the City, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
 - d. Towers and associated antennae shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
 - e. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

- f. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.
 - g. All towers shall be constructed to conform with the requirements of the Occupational Safety and Health Administration.
 - h. Antennae and towers shall not be erected on any protected residential property as defined in section 74-542 in violation of the following restrictions:
 - 1. Notwithstanding the provisions of this Article, the required setback for antennae and towers not rigidly attached to a building shall be equal to the height of the antenna and tower. Those antennae and towers rigidly attached to a building, and whose base is on the ground, may exceed this required setback by the amount equal to the distance from the point of attachment to the ground.
 - 2. No tower shall be in excess of a height equal to the distance from the base of the antenna and tower to the nearest overhead electrical power line, which serves more than one dwelling or place of business, less five feet.
 - 3. Metal towers shall be constructed of, or treated with, corrosive resistant material. Wood poles shall be impregnated with rot resistant substances.
- (c) *Tower setbacks.* Towers shall conform with each of the following minimum setback requirements:
- (1) Towers shall be set back from any property line a minimum distance equal to the height of the tower.
 - (2) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.
 - (3) The minimum distance to a residential structure shall be the height of the tower plus ten feet.
 - (4) The tower or associated accessory structures shall not encroach upon any public easements.
 - (5) The setback shall be measured from a point on the base of the tower located nearest the property line to the actual property line.
- (d) *Height.* The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennae or other attachments. When

towers are mounted upon other structures, the combined height of the structure and tower must meet the height restrictions of section 74-483.

- (e) *Height limitations for towers.*
 - (1) In all protected residential property, towers, including antennae and other attachments, shall not exceed a maximum height of 60 feet.
 - (2) In residential property other than protected residential property, the maximum height of any tower, including antennae and other attachments, shall not exceed 90 feet.
 - (3) In all nonresidential zoning districts, the maximum height of any tower, including antennae and other attachments, shall not exceed 150 feet.
 - (4) Exceptions to the provisions of this subsection shall be as follows: Multi-user towers may exceed the height limitations of section 74-483 by up to 20 feet.
 - (5) Noncompliance of characteristics of antennae and towers created by application of this division shall not in any manner limit the legal use of the property, nor in any manner limit the repair, maintenance, or reconstruction of a noncomplying antenna or tower; however, in no instance shall the degree of noncompliance be increased except as otherwise permitted by this Code.
- (f) *Tower lighting.* Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
- (g) *Signs and advertising.* The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- (h) *Accessory utility buildings.* All utility buildings and accessory structures to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (i) *Abandoned or unused towers or portions of towers.* Abandoned or unused towers or portions of towers shall be removed as follows:
 - (1) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the zoning administrator. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.

- (2) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed shall require the issuance of a new conditional use permit.
- (j) *Antennae mounted on roofs, walls, and existing structures.* The placement of wireless telecommunication antennae on roofs, walls, and existing towers may be approved by the zoning administrator, provided the antennae meet the requirements of this division, after submittal of (i) a final site and building plan as specified in section 74-37, and (ii) a report prepared by a licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated. Accessory equipment for wall or roof mounted antennae must be located within the principal building or, if located on the rooftop, must be enclosed.
- (k) *Interference with public safety telecommunications.* No new or existing telecommunications service shall interfere with public safety telecommunications. The City may require that all applications for new service be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the City at least ten calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.
- (l) *Lights and other attachments.* No antenna or tower on any protected residential property as defined in section 74-542 shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency or the Federal Communications Commission, nor shall any tower have constructed thereon, or attached hereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.
- (m) *Security fencing.* Towers shall be provided with security fencing to prevent unauthorized entry.

Sections 74-547—74-559.

Reserved.

ARTICLE IX. **Supplemental Regulations**

DIVISION 4. **Wind Energy Conversion Systems (WECS)**

Section 74-560. Purpose and Intent.

This ordinance is established to regulate the installation and operation of Wind Energy Conversion Systems (WECS) within the City of Anoka, not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plan Siting Act (Minn. Stat. § 116C.51 – 116C.697).

Section 74-561. Definitions.

The definitions in Section 74-2 of this Chapter apply herein. In addition, the following definitions shall apply in the interpretation and enforcement of this division.

Commercial WECS means a WECS of 40 kilowatts or more in total name plate generating capacity.

Fall zone means the area defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.

Feeder Line means 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 on interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the WECS.

Meteorological Tower means towers that are erected primarily to measure wind speed and directions plus other data relevant to siting a WECS. For purposes of this ordinance, meteorological towers does not mean towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

Nacelle means the part of the WECS that contains the key components of the wind turbine, including the gearbox, yaw system and the electrical generator.

Non-commercial WECS means a WECS of less than 40 kilowatts (KW) in total name plate generating capacity.

Rotor diameter means the diameter of the circle described by the moving rotor blades.

Substations means any electrical facility designed to convert electricity produced by a wind turbine to a voltage greater than 35,000 volts (35 kilovolts) for interconnection with high voltage transmission lines.

Total height means the highest point, above ground level, reached by a rotor tip or any other part of the WECS.

Tower means vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

Tower height means the total height of the WECS exclusive of the rotor blades.

Transmission line means those electrical power lines that carry voltages of at least 69,000 volts (69 kilovolts) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

WECS – Wind Energy Conversion System means an electrical generating facility comprised of one or more wind turbines and accessory facilities, including, but not limited to, power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or may be distributed into the electrical grid.

Wind turbine means 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.

Section 74-562.

Application, process, building permits, fees and inspections.

- (a) *Application.* Applications for approval to construct a commercial WECS shall include the following information:
- (1) The name(s) of the project applicant.
 - (2) The name(s) of the property owner.
 - (3) The legal description and address of the project.
 - (4) A description of the project including the type, name plate generating capacity, tower height, rotor diameter, and means of interconnecting with the electrical grid.
 - (5) The proposed site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and shall be drawn to scale.
 - (6) An engineer's certification.
 - (7) Documentation of land ownership or legal control of the property.
 - (8) The latitude and longitude of individual wind turbines.
 - (9) A USGS topographical map, or map with similar date, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the proposed WECS.
 - (10) The location of wetlands, scenic and natural areas within 1,320 feet of the proposed WECS.
 - (11) An acoustical analysis.
 - (12) A Federal Aviation Administration (FAA) Permit Application, if applicable.
 - (13) The location of all known Communication Towers within two (2) miles of the proposed WECS.
 - (14) A decommissioning plan.
 - (15) A description of potential impacts on nearby WECS and wind resources on adjacent properties.
- (b) *Process.* WECS applications will be processed under the procedures for applicable approvals contained within this Chapter.
- (c) *Building permits.*
- (1) It shall be unlawful for any person to erect, construct in place, place or re-erect, replace, or repair any tower without first making application to

the building inspections department and securing a building permit therefore as required in this sub-section.

- (2) The applicant shall provide, at the time of application, sufficient information to indicate that construction, installation and maintenance of the WECS will not create a safety hazard or damage to the property of other persons.
 - (3) Only one tower shall exist at any one time on any one property.
 - (4) Before issuance of a building permit, the following information shall be submitted by the applicant:
 - a. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration; and
 - b. A report from a State-licensed professional engineer that demonstrates the WECS compliance with structural and electrical standards.
 - c. A conditional use permit approved by the City.
 - (5) Any city cost of testing or verification of compliance shall be borne by the applicant.
- (d) *Fees.* The fee(s) to be paid shall be as prescribed by the City Council.
- (e) *Inspections.* WECS may be inspected by an official of the building department to determine compliance with original construction standards. Deviation from the original construction for which a permit is obtained constitutes a violation of this section. Notice of violations will be sent by registered mail to the owner of the WECS and the property owner upon which the WECS is located who will have thirty (30) days from the date notification is issued to make repairs. Upon completion of the repairs, the owner/applicant shall notify the building official that the repairs have been made.

Section 74-563.

Conditionally Permitted and Prohibited WECS.

- (a) *Conditionally permitted WECS.* Commercial WECS are permitted in all zoning districts, except as noted in subpart (b) below, upon issuance of a conditional use permit, and are subject to the provisions of Section 74-552.
- (b) *Prohibited WECS.* All WECS are prohibited in the environmental overlay districts – Mississippi National River Recreation Area (MNRRRA) and the Rum River Wild and Scenic District and are prohibited in the flood plain or shoreland areas. Non-commercial WECS are prohibited in all areas of the City.

Section 74-564.

Performance Standards.

- (a) *Safety Design Standards.*
 - (1) Engineering Certification. For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

- (2) Clearance. Commercial WECS: Rotor blades must maintain at least fifteen (15) feet of clearance between their lowest point and the ground.
 - (3) Rotor Safety. Each commercial WECS shall be equipped with both a manual and an automatic braking device capable of stopping the WECS operation in high winds (40 miles or greater).
 - (4) Lightning Protection. Each commercial WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code.
 - (5) Warnings. For all commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage, stating the manufacturer's name and listing an emergency phone number.
- (b) *Standards.*
- (1) Total Height.
 - a. Commercial WECS shall have a total height of no more than one hundred fifty (150) feet.
 - b. WECS shall not be roof-mounted.
 - (2) Tower Configuration.
 - a. All towers that are part of a WECS, except meteorological towers, shall be installed with a tubular, monopole type tower.
 - b. Meteorological towers may be guyed.
 - (3) Setbacks.

	Commercial WECS	Meteorological Towers
Property lines	1.1 times the total height plus ten feet	The lesser of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height
Neighboring Dwellings	1.25 times the total height	The lesser of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height
Road Rights-of-Way	The lesser of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height	The lesser of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height
Other Rights-	The lesser of the	The lesser of the fall zone,

	Commercial WECS	Meteorological Towers
of-Way	fall zone, as certified by a professional engineer plus ten feet or 1.1 times the total height.	as certified by a professional engineer plus ten feet or 1.1 times the total height
Other Structures	The lesser of the fall zone, as certified by a professional engineer plus ten feet or 1.1 times the total height	The lesser of the fall zone, as certified by a professional engineer plus ten feet or 1.1 times the total height
Other Existing WECS	To be determined through the CUP review based on relative size of existing and proposed WECS, alignment of WECS relative to predominant winds, topography, extent of wake interference on existing WECS, and other setbacks required; may be waived for multiple turbine projects.	

- (4) Color and Finish.
 - a. All wind turbines and towers that are part of a WECS shall be white, grey or another non-reflective, non-obtrusive color.
 - b. Finishes shall be matte or non-reflective.
- (5) Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration (FAA) permits and regulations. No additional lighting, other than building security lighting, is permitted.
- (6) WECS sites. The design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the WECS to the natural setting and then existing environment.

- (7) Signs. The manufacturer's or owner's company name and/or logo may be placed on the nacelle of the WECS. No other signage, other than as required in this Division, shall be permitted.
- (8) Feeder Lines. All communications and feeder lines, equal or less than 34.5 kilovolts in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.
- (9) Waste Disposal. All solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
- (10) Maximum Vibration and Shadow Flicker.
 - a. No WECS shall produce vibrations through the ground that are humanly perceptible beyond the property on which it is located.
 - b. Commercial WECS shall include a shadow flicker analysis study with the application submission.
- (11) Discontinuation and Decommissioning. A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the City outlining the steps and schedule for returning the WECS to service.
 - a. All WECS and accessory buildings shall be removed in their entirety including all footings and foundations within ninety (90) days of the discontinuation of use.
 - b. Each Commercial WECS shall submit a Decommissioning Plan outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon becoming a discontinued use. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities. The Decommissioning Plan shall be submitted as part of the conditional use permit application.
 - c. The City may require financial surety in the form of a cash escrow, irrevocable letter of credit or performance bond to ensure that decommissioning of the Commercial WECS is completed.

Section 74-565.

Other Applicable Standards.

- (a) Noise. All WECS shall comply with the MPCA and City of Anoka standards for noise.

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- (b) Electrical Codes and Standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
- (c) Federal Aviation Administration (FAA). All WECS shall comply with FAA standards and permit requirements.
- (d) Building Code. All WECS shall comply with the Minnesota Building Code as adopted by the State of Minnesota and the City of Anoka.
- (e) Interference.
 - (1) The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by WECS.
 - (2) The applicant shall notify all communication tower operators within two (2) miles of the proposed WECS location upon application to the City for a permit to operate a WECS.
 - (3) No WECS shall be constructed so as to interfere with public safety telecommunications.

Section 74-566 – 74-600. Reserved.

CHAPTER 74. ZONING

ARTICLE IX. Supplemental Regulations.

DIVISION 5. Traffic Analysis

Section 74-575. Purpose and Intent.

- (a) **Purpose and Intent.** Streets and thoroughfares are an essential component of the City's street network and are necessary to accommodate the community's health, safety and welfare and ability to grow and develop in a logical and financially responsible manner. The purpose and intent of this Division is to ensure that:
- (1) Traffic volumes and traffic operations generated by platting, re-platting, rezoning, a change in use, or new development will not prevent the City from implementing its then planned street system improvements.
 - (2) Traffic volumes and traffic operations generated by platting, re-platting, rezoning, a change in use, or new development will not negatively impact a community's existing street system and traffic operations or create safety hazards.
 - (3) New plats, land that is rezoned, or re-platted, a change in use, and new development will be served and supported by an adequate network of streets and thoroughfares. Necessary and desirable public rights-of-way for off-site, abutting and internal thoroughfares will be provided to support new development at the time of platting, rezoning, re-platting or development of the land.
 - (4) Driveway accessibility nor on-site circulation plans for a change in use or new development will not significantly impact or create safety of traffic operations on adjacent public streets, or prevent the safe and convenient circulation of on-site traffic operations.
 - (5) Parking demand generated by platting, rezoning, re-platting, a change in use, or new development will be adequately addressed on-site or in off-street, satellite parking facilities.
 - (6) Opportunities to reduce travel demand and/or efficiently manage travel demand will be investigated and implemented.

Section 74-576. Definitions.

Change in Use. A change of use is a use which may create traffic patterns that substantially differ from traffic patterns of the existing approved use of a building or land, based upon a consideration of the following:

- (a) Modifications to existing improvements or construction of new improvements.
- (b) The hours, days or seasons during which a use operates.
- (c) The number of employees or staff, occupants, visitors or other persons using the land, building or structures.

- (d) The number of employees or staff, occupants, visitors or other persons using the land, building, or structures.
- (e) The amount and/or nature of traffic, parking, shipping or deliveries associated with the use on the premises.

Daily trip or trips per day. The number of trips a particular land use will generate within a 24 hour period.

Intersection Level of Service (LOS). A measure of delay vehicles will experience at intersections.

Peak Hour trips. The number of trips typically between 7 a.m. and 9 a.m. (AM peak) and between 4 p.m. and 6 p.m. (PM peak) Monday through Friday, or as may be specifically attributable to the building or land based upon its particular use.

Roadway LOS. A measure of the volume of traffic a roadway carries in relation to its capacity to carry traffic.

Traffic Impact Assessment (TIA). A study that looks at current and forecast future conditions after a development is implemented. TIA's focus on trip generation at the site, trip distributions to/from the site, traffic assignments to/from driveways serving the site, the street adjacent to the site, driveways (number and locations) serving the site, traffic control mechanisms at the site driveways, driveway and adjacent intersection levels of service (LOS), on-site circulation, and parking generation, supply and configuration.

Traffic Impact Study (TIS). A more rigorous study that takes into account everything in the TIA and additional conditions that are distant from the site and that occur under specific development scenarios: Existing Conditions, Forecast No-Build Conditions, and Forecast Build Conditions.

Section 74-577. Items to address in Traffic Analysis. Based upon a review of the TIA or TIS and other applicant supplied data, the Planning Commission and City Council will determine if the proposed rezoning, platting, re-platting, change of use, or new development plans meets the following:

- (a) The plans are consistent with the City's then existing planned improvements and will not prevent the City from moving forward with its plans.
- (b) The plans will not create safety hazards.
- (c) The plans provide for adequate accessibility between the development and the street system and an adequate on-site circulation system.
- (d) The plans provide for adequate on-site parking (or satellite parking) as determined by applicable City Ordinance.
- (e) The plans include reasonable approaches to reduce and/or manage travel demand.

Section 74-578. Traffic Impact Assessment (TIA). A Traffic Impact Assessment is required if a rezoning, re-platting, or change of use generates between 50 and 99 peak hour trips per peak direction (entering or leaving), above the trip generation for the use as it existed prior to the rezoning, re-platting, change of use, determined by the greater of the ten existing actual trip generation or the latest edition of the Institute of Transportation Engineers (ITE) trip generation for the existing use, or another method approved by the City; or upon the platting, re-platting or new development of vacant land if the proposed use is expected to generate between 500 and 749 daily trips.

Section 74-579. Traffic Impact Statement. A Traffic Impact Statement (TIS) is required to be submitted, rather than a TIA, if the criteria of Section 74-258 is met and the peak hour trips per peak direction exceed 100 or the daily trips exceed 749.

Section 74-580. Elements of Traffic Analysis. Table 74-1 lists the major elements to include in each of the two types of traffic analysis.

TABLE 74- 1

ELEMENTS TO INCLUDE IN TRAFFIC ANALYSIS

Element Included in Traffic Analysis	Traffic Impact Assessment	Traffic Impact Study
Impact Analysis		
Describe Characteristics and Features of Adjacent Street (street and intersection geometrics; traffic control devices; turn, general traffic, parking, and bike lanes; sight distance; pedestrian accommodations and facilities, etc.)	✓	✓
Pre-Development Existing Conditions along Adjacent Street and at Adjacent Intersections (LOS)	✓	✓
Opposing Driveway Locations and Conditions (LOS)	✓	✓
Study Area and Future Road Summary		✓
Understanding of the Development Program and Operations for the Proposed Development	✓	✓
Trip Generation for On-Site Uses	✓	✓
Trip Distribution Analysis	✓	✓
Background Traffic Growth		✓
Traffic Assignments to Driveways and Adjacent Intersections	✓	✓
Site Driveway Intersection Capacity (LOS)	✓	✓
Future Conditions at Nearby Intersections (LOS)		✓
Mitigation Identifications and Analysis	✓	✓
Site Analysis		
Number and Location of Driveways Serving the Site	✓	✓
Access Design and Queuing	✓	✓
On-Site Circulation	✓	✓
Other Analysis		
Planned and Programmed Roadway Improvements		✓
Planned and Approved Developments in Vicinity of Site		✓
Traffic Impacts of Planned/Approved Developments		✓

Traffic Analysis (LOS and Queue Analysis) at Distant Intersections and Roadway Segments for:		
Future No-Build Condition		✓
Future Build Condition		✓
Travel Demand Management and Transportation System Management Techniques (as appropriate)		✓

Section 74-581. Required information. The following information must be included in Traffic Impact Assessment.

- (a) Background.
 - (1) Name of development and developer.
 - (2) Development location and zoning classification.
 - (3) Description of study area – setting and features of the area where the development is proposed to be implemented.
 - (4) Description of proposed development program and operations (design year and opening of development, peak days of week and peak times of day, typical vehicle occupancy, describe patrons as appropriate).
 - (5) Identify other factors that will bear on traffic (planned/programmed roadway improvements, other developments proposed/approved for the area, etc.
- (b) Site Plan.
 - (1) Identify use (residential, commercial, office, institutional, industrial, etc.).
 - (2) A detailed description of the proposed use.
 - (3) A detailed description of the site.
 - (4) A description of the building footprint and how it sits on the proposed site.
 - (5) The number and location of access driveways, clearly labeled, and assessed relative to City Code.
 - (6) Parking supply, assessed relative to City Code.
- (c) Traffic Assessment Results. The traffic study must include:
 - (1) Assessment of Existing Conditions:
 - Identify and describe adjacent intersections serving the site.
 - Quantify peak hour turning movements.
 - LOS at adjacent intersections.
 - (2) Assessment of Post Development Conditions:
 - Trip generation, trip distribution, traffic assignment to driveways and adjacent intersections.
 - LOS at driveways and at adjacent intersections.
- (d) Summary of Findings.
 - (1) Observations.
 - (2) Conclusions.
 - (3) Recommendations.

Section 74-582. The following items include information to be included for specific elements of the Traffic Impact Study.

- (a) Background.
 - (1) Name of development and developer.
 - (2) Development location and zoning classification.
 - (3) Description of study area – setting and features of the area where the development is proposed to be implemented.

- (4) Description of proposed program and operations (design year and opening of development, peak days of week and peak times of day, typical vehicle occupancy, describe patrons as appropriate).
- (5) Identify other factors that will bear on traffic (planned/programmed roadway improvements, other developments proposed/approved for the area, etc.).
- (b) Site Plan.
 - (1) Identify use (residential, commercial, office, institutional, industrial, etc.).
 - (2) A detailed description of the proposed use.
 - (3) A detailed description of the site.
 - (4) A description of the building footprint and how it sits on the proposed site.
 - (5) The number and location of access driveways, clearly labeled, and assessed relative to City Code.
 - (6) Parking supply, assessed relative to City Code.
 - (7) Describe bicycle parking supply, assess relative to City Code.
- (c) Existing Traffic Conditions.
 - (1) Define the existing condition.
 - (2) Show existing two-way daily traffic and comment on roadway LOS.
 - (3) Identify existing driveways adjacent to or opposing proposed driveways, describe any traffic operations issues, recommend and test mitigations to address issues.
 - (4) Show existing peak hour turning movements at intersections that will be affected by the proposed development.
 - (5) Conduct existing intersection capacity analysis and report existing LOS and storage issues.
 - (6) Recommend and test mitigation measures to ensure either minimum LOS D under existing conditions and adequate storage, or a LOS no worse than the lowest LOS for the affected intersection at any time.
- (d) Future No-Build Conditions.
 - (1) Define the No-Build condition including any significant changes in land use in the vicinity of the proposed development and any changes in the roadway network that will have taken place since the existing condition.
 - (2) Conduct analysis to forecast No-Build, two-way daily traffic and comment on roadway LOS.
 - (3) Re-visit existing driveways adjacent to or opposing proposed driveways, describe traffic operations issues relative to forecast two-way daily traffic, recommend and test mitigations to address issues.
 - (4) Conduct analysis to forecast No-Build peak hour intersection turning movements.
 - (5) Conduct forecast No-Build intersection capacity analysis and report LOS and storage issues.
 - (6) Recommend and test mitigation measures to ensure either minimum LOS D or a LOS no worse than the lowest LOS for the affected intersection at any time under forecast No-Build conditions and adequate storage.
- (e) Future Build Conditions.
 - (1) Define the Build condition.
 - (2) Conduct analysis to quantify the effects of the Build condition:
 - a. Trip generation analysis using the latest edition of *Trip Generation*, Institute of Transportation Engineers. Account for pass-by and multi-purpose trips. Provide credit for transit trips.

- b. Trip distribution analysis using an approved approach (population within Traffic Analysis Zones, households within Traffic Analysis Zones,two-way daily traffic on roadways serving the site, etc.).
 - c. Assign traffic to driveways and roadways serving the site in accordance with outcomes from the trip distribution analysis.
 - (3) Re-visit existing driveways adjacent to or opposing proposed driveways, describe traffic operations issues relative to forecast two-way daily traffic, recommend and test mitigations to address issues.
 - (4) Add assigned traffic to No-Build condition intersection turning movements to derive Build condition intersection turning movements.
 - (5) Conduct forecast Build intersection capacity analysis and report LOS and storage issues.
 - (6) Recommend and test mitigation measures to ensure either minimum LOS D or a LOS no worse than the lowest LOS for the affected intersection at any time under forecast No-Build conditions and adequate storage.
 - (7) Quantify forecast Build condition, two-way daily traffic and comment on LOS.
- (f) On-site circulation.
- (1) Describe location of access routes, relative to driveways and front and rear doors of building(s).
 - (2) Describe locations of dumpsters and delivery/loading docks and how service vehicles will circulate and maneuver.
- (g) On-site parking.
- (1) Describe proposed parking supply.
 - (2) Assessed proposed supply against required parking supply in City Code.
 - (3) Describe rationalization if there is a discrepancy between proposed and required supplies. Quantify parking generation (demand) per the latest edition of the ITE, ULI, or other recognized source.
 - (4) Recommend an approach to resolve discrepancy.
 - (5) Describe proposed bicycle parking supply relative to City Code and how bicycles will circulate to bike parking racks.
- (h) Travel Demand Management. Identify, as appropriate, approaches to reduce travel demand and how they might be applied.
- (1) Transit.
 - (2) Carpool.
 - (3) Employer sponsored vanpool.
 - (4) Employer incentives.
 - (5) Bike and bike facilities.
 - (6) Pedestrian and pedestrian facilities.
- (i) Summary of Findings.
- (1) Observations.
 - (2) Conclusions.
 - (3) Recommendations.

Section 74-583. Exception to the regulations within this Division.

- (a) The City recognizes that there is very little that can be done to expand capacity and improve traffic operations beyond incremental operational changes (adjusting signals, adding operational control devices, i.e., stop signs) in the downtown. As such, a change of use for existing properties in the downtown area where parking is not required does not require a traffic analysis. Staff may perform a traffic trip generation analysis to monitor the need for improvements in the street system. New development in this area, however, must meet the standards of this Division to the extent applicable.

Section 74-584 – 74-600. Reserved.

CHAPTER 74. ZONING

ARTICLE X.

Non-conforming Uses and Dimensionally Substandard Structures

Section 74-601. General.

- (a) Purpose and Intent. The purpose and the intent of this section is to:
- (1) Recognize the existence of nonconforming uses of land, nonconforming buildings, structures and signs, and nonconforming lots of record.
 - (2) Discourage the enlargement, expansion, intensification or extension of any nonconforming use of land or nonconforming building, structure or sign or any increase in the impact of a nonconforming use of land or nonconforming building, structure or sign on adjacent properties.
 - (3) Regulate the repair, replacement, restoration, maintenance and improvement of nonconforming uses and nonconforming structures, buildings and signs to prevent and abate nuisances and to protect the public health, safety and welfare.
 - (4) Encourage the elimination of nonconforming uses, buildings, structures, and signs or reduce their impact on adjacent properties.
 - (5) Eventually bring all nonconforming uses of land and nonconforming buildings, structures and signs into conformity.
- (b) **Definitions.** For purposes of this Section, the following words and phrases shall have the meaning ascribed to them by this Section or Section 74.2 of this Chapter. Words not defined shall have the plain meaning generally ascribed to them.

Expansion, enlargement or intensification means (1) any increase in a dimension, size, area, volume, or height; (2) any increase in the area of use; (3) any placement of a structure or building or part thereof where none existed before; (4) any improvement that would allow the land to be more intensely developed; (5) any move of operations to a new location on the property; or (6) any increase in intensity of use based on a review of the original nature, function or purpose of the nonconforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odor, area of operation, number of employees, and other factors deemed relevant by the city.

Illegal nonconformity or nonconforming use means a land use, lot of record, structure, building, or sign that was illegally established when it was initiated, created or constructed and which did not conform to the applicable conditions or provisions of the City Code for the district in which the use, lot, structure, building or sign is located.

Improvement means making the nonconforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed and does not include an expansion, enlargement or intensification.

Legal nonconformity or nonconformity use means any land use, lot of record, structure, building or sign that is not permitted by, or is not in full compliance with, the applicable regulations of the zoning ordinance but which complied with existing regulations at the time the use or lot was established or the building, structure or sign was constructed.

Nonconforming land use means an activity using land, buildings and/or structures for a purpose that was legally allowed when established but that is not currently allowed as a use in the zoning district in which it is located.

Nonconforming lot of record means an existing lot of record which, at the time of the approval of the zoning ordinance is nonconforming in terms of lot area, lot width, or lot depth, and that has not, at any time, been the site of a principal use or structure.

Nonconforming structure, building or sign means a legal nonconformity, other than a nonconforming land use, that complied with the zoning ordinance standards when established, but that does not currently conform to standards in the zoning ordinance for height, setback or size.

Replacement, reconstruction or restoration means construction that matches pre-existing conditions and otherwise complies with Section 74-697 (g) of this Chapter.

Zoning Ordinance means the City of Anoka Zoning Ordinance and any subsequent amendments thereto.

Section 74-602. General Standards.

The following standards shall apply to nonconformities:

- (a) Continued Use of a Nonconforming Land Use. A nonconforming use of land and conforming structures used for a nonconforming use of land may be used and continued, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, enlargement or intensification.
- (b) Continued Use of a Nonconforming Structure or Building.
 - (1) Any nonconforming structure or building damaged by fire or other peril to an extent of fifty percent (50%) or less of its estimated market value, as indicated in the records of the county assessor at the time of damage, may be restored, reconstructed, or repaired, and can be used as before, provided the work is completed within one year after the damage occurred.
 - (2) Any nonconforming structure or building damaged by fire or other peril to an extent greater than fifty percent (50%) of its estimated market value, as indicated in the records of the county assessor at the time of damage, shall not be restored or reconstructed and used as before such destruction unless a building permit to restore, reconstruct or repair the structure or building has been applied for within 180 days after the damage occurred. In this case, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent properties.
 - (3) The city may permit an expansion, as authorized in this Chapter, and impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare or safety.
 - (4) Existing car lots at the addresses listed below, so long as they are continuously used as car lots, shall be required to maintain only three foot positive setbacks from the front, side and rear yards, unless adjacent to a residential property, in which case the respective setback shall be at least ten feet or three feet if a vision-proof fence approved by the City is installed:

<u>Address</u>	<u>PIN Number</u>
822 E River Rd	07-31-24-43-0016
814 E River Rd	07-31-24-43-0015
2535 N Ferry St	01-31-25-14-0029

- (c) Change of Use. When any legal nonconforming use of land has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use of land.
- (d) Discontinuance of Nonconforming Use of Land, Structures and Buildings. If a nonconforming use of land is discontinued or ceases for a period of more than one year, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
- (e) Maintenance of Nonconforming Structures, Buildings and Signs. Maintenance of a nonconforming structure, building or sign will be permitted when it includes necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use of a structure, building or sign.
- (f) Alterations or Expansions.
- Sub-parts (1-4) apply to residential uses; subpart (5) applies to non-residential uses.
- (1) Alterations may be made to a nonconforming residential structure or building when such alterations improve the livability and safety of such structure or building, provided, however, that they do not increase the number of dwelling units in the structure or building.
- (2) Where a single family dwelling is a nonconforming use of land, the following shall apply:
- a. The addition of a bedroom that otherwise meets the zoning ordinance regulations shall not be considered an expansion of the use and is permitted. Such addition shall be limited to an increase in the living area of no more than twenty percent (20%) of the existing main floor square footage.
 - b. The addition of a deck, garage, patio, fence, parking area, swimming pool or other development that improves the livability and/or safety and the dwelling and otherwise meets the single family residential zoning ordinance standards for height and setbacks shall be permitted.
 - c. A parallel extension/expansion of a pre-existing nonconforming single family dwelling is permitted without a variance if said expansion does not encroach further into the already established nonconforming setback and the extension/expansion meets all other applicable standards of the zoning ordinance.
- (3) Expansion of parking lots on parcels with existing multiple family structures is permitted in single and two-family residential zoning districts (R-1 and R-2) provided the following are met:
- a. No parking shall be permitted within ten feet (10') of any property line adjacent to a residential zoning district or five feet (5') of any property line adjacent to a commercial or industrial zoning district.

- b. A front yard setback of twenty feet (20') is required from any right-of-way line.
 - c. A setback of twenty-five feet (25') is required when located across the street from a residential zoning district.
 - d. Driveways may be permitted within five feet (5') of any property line.
 - e. Existing parking areas located within the previously established setbacks shall be allowed a parallel extension but shall not encroach further into an established nonconforming setback.
 - f. Expansion of a parking lot shall not exceed an impervious surface coverage of fifty percent (50%) for the subject property.
 - g. Garages are permitted on parking lots of existing multiple family structures or buildings, provided a five-foot (5') rear and side yard setback is met and a twenty-five foot (25') front yard setback is met. A site plan review and approval is required prior to construction of such garage(s).
- (4) Any modification to an existing nonconforming residential building or structure to provide an accessibility improvement shall be permitted upon approval of the zoning administrator or designee and the building official.
 - (5) Expansion of a nonconforming non-residential use, structure, or building may be permitted if it can be demonstrated that the proposed expansion prevents or abates a public nuisance and/or protects the public health, safety, and welfare. Such expansion shall require review by the Planning Commission and approval by the City Council. Reasonable requirements may be imposed on the expansion as a condition of approval.
- (g) Replacement, reconstruction, restoration or improvements to nonconforming structures or buildings. If replacement, reconstruction, restoration or improvement is allowed, it may occur without any land use approvals from the City, except a building permit, subject to the following:
- (1) The resulting use does not create any new adverse impacts on adjacent property.
 - (2) Internal improvements and improved materials used to replace roof surfaces, siding, windows, doors and similar components are permitted.
 - (3) Work that would not meet sub-parts (1) and (2) above, or any other improvement to a nonconforming use of land, structures, buildings, or signs may not be undertaken unless a variance is issued in accordance with the zoning ordinance. The city may impose conditions in its approval to protect public health, safety or welfare and to mitigate any newly created impacts on adjacent property.
 - (4) A building permit must be obtained prior to commencing such work.
- (h) Change in Tenancy. A change in tenancy, ownership or management will not affect the status of the nonconformity if the nonconformity continues in the same manner and of no greater intensity as that occurring prior to the change.

- (i) Nonconforming Signs. Nonconforming signs pertaining to or advertising products sold on the premises of a nonconforming structure, building or use, or a nonconforming sign that does not meet height, setback, area or other applicable standards, may be continued only when the nonconforming use is permitted to continue. Such nonconforming signs shall not be relocated or increased in number, area, height or illumination intensity.
- (j) Buildings Under Construction and Building Permits Granted Prior to Adoption or Subsequent Amendment of Zoning Ordinance. Any proposed structure or building which will, under the Zoning Ordinance, become nonconforming, but for which a building permit has been lawfully granted prior to the effective date of the zoning ordinance, may be completed in accordance with the approved plans provided:
 - (1) Construction must commence within 180 days of issuance of the building permit.
 - (2) Construction continues to completion within one year.
 - (3) Such structure or building and use shall thereafter be a legal nonconforming structure, building or use.
- (k) Nonconforming Lots of Record. Except for land in the Rum River Wild and Scenic River District, the Mississippi River Critical Area Corridor, a floodplain management district, or a shoreland management district, the following shall apply to nonconforming lots of record:
 - (1) Any existing lot of record that is nonconforming and that is not improved with a principal use is entitled to be developed with a principal use provided the zoning ordinance standards for setbacks can be met. This provision shall apply even though the lot of record does not meet the current applicable zoning requirements for lot area, lot depth and/or lot width.
 - (2) A nonconforming lot of record is not entitled to be developed with a principal use if the nonconforming lot of record has been in common ownership with an abutting parcel of land or if it has been part of a larger parcel that became nonconforming after adoption of the zoning ordinance.
 - (3) If two or more contiguous lots in any district are under the same ownership and any individual lot does not meet the lot area and lot width requirements of the zoning ordinance, the lot is not considered a separate parcel or lot for the purpose of sale or development and the lot must be combined with the one or more contiguous lots so they equal one or more lots, each meeting the lot area and lot width requirements of the zoning ordinance to the extent possible. This section shall not apply to the construction of a single family dwelling on a nonconforming single lot of record.
 - (4) In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of the zoning ordinance, a single family dwelling and customary accessory buildings or structures, may be erected on any single lot of record. This provision shall apply even though the lot fails to meet the zoning ordinance requirements for lot area, lot width, or lot depth that are generally applicable in the zoning district, provided that other requirements not involving lot dimensions or lot area conform to the regulations for the zoning district in which the lot is located.

- (l) Burden of Proof. A person who wishes to take advantage of the rights granted to a legal nonconformity has the burden of proving the status as a legal nonconformity by clear and convincing evidence.
- (m) Nonconformities in Shoreland Areas. Nonconformities in shoreland areas shall be regulated by Minn. Stat. 462.357, Section 3, Subd. 1(e), parts (d) to (j) as amended.
- (n) Creation of Nonconformities by Public Action. When lot area, width or setbacks are reduced as a result of conveyance to a federal, state, or local government for a public purpose and the remaining area is at least fifty percent (50%) of the otherwise applicable standards, then that lot and any structures existing at the time of public action shall be deemed to be in compliance with the minimum lot area, lot width and setbacks of the zoning ordinance.
- (o) Appeal of Estimated Value of Damage.
 - (1) If the City determines that more than fifty percent (50%) of the building or structure has been destroyed, the property owner may, at his/her sole expense, hire an independent appraiser to determine the market value and present the appraisal to the City Council for reconsideration.
 - (2) If the City Council maintains its determination after receiving the appraisal, the property owner shall have the right to appeal the City's market value determination to District Court. Such appeal must be brought within thirty (30) days of the City Council's determination.
- (p) Violations. A violation of this Section is subject to the penalties and provisions of Section 74-31 of the Chapter.